

**STATE OF SOUTH CAROLINA
IN THE
COURT OF APPEALS**

Appeal from the Court of Common Pleas
For Charleston County
Honorable Kristi L. Harrington, Circuit Court Judge
Civil Action No.: 2016-CP-10-5578
Appellate Case No.: 2018-000511

RECEIVED

NOV 21 2018

SC Court of Appeals

TOWN OF SULLIVAN'S ISLAND,

Respondent,

v.

MICHAEL MURRAY,

Appellant.

**RECORD ON APPEAL
Volume I**

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

Town of Sullivan's Island,
Plaintiff/Respondent,
vs.
Michael Murray,
Defendant/Appellant.

Case No. 2016-CP-10-5578

**ORDER IN RESPONSE TO
DEFENDANT/APPELLANT'S MOTION
TO ALTER AND AMEND IN
ACCORDANCE WITH SCRC
RULE 59**

FILED
FEB 23 PM 2:13
CLERK OF COURT

This matter is before the Court on Defendant/Appellant's Motion to Alter or Amend in accordance with SCRC Rule 59. This matter was initially heard by the Court on January 4, 2016. This is an appeal from the Town of Sullivan's Island Municipal Court's decision related to a ticket issued to Plaintiff/Respondent for violation of the Town's ordinances Chapter 21-75 which governs the construction of docks and Chapter 5-10 of the Town's ordinances which requires issuance of a building permit before commencing construction in the Town. The Municipal Court determined that Defendant/Appellant Murray had violated ordinances 21-75 and 5-10 in construction of a dock located at 1102 Osceola Avenue, Sullivan's Island.

This Court issued a Form 4 Order in this matter on January 6, 2016. The following notation was included on the Form 4 Order: "*The appeal filed by Murray is denied. Based on the record, Murray acknowledged notice of the zoning laws and permit requirements and was found in violation. Murray has failed to demonstrate error of law.*"

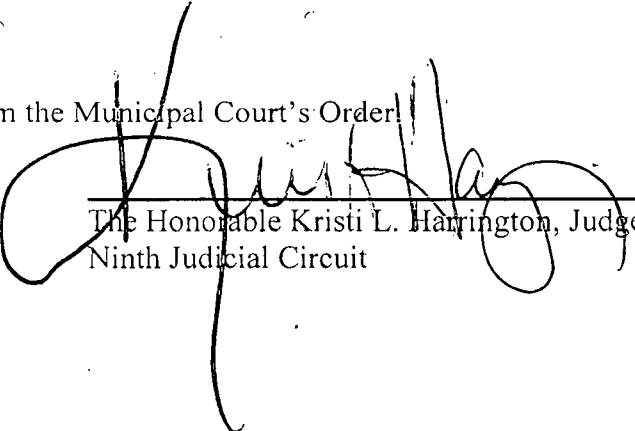
Defendant/Appellant Murray filed a Rule 59 Motion to Alter or Amend on January 25, 2017, but Murray's Counsel failed to notify this Court of the Motion as required in SCRC Rule 59. Murray asserts that the ruling embodied in the Form 4 Order does not address the primary

issue raised by Defendant/Respondent which is the whether the Town of Sullivan's Island can enforce a requirement that has not been promulgated and is merely an interpretation by the Town of its authority and whether such enforcement can be in the form of a criminal prosecution.

This Court modifies the Form 4 Order with the following Findings of Fact:

1. There is no express requirement in the Town of Sullivan's Island's ordinances, including Chapter 21-75 which would prohibit docks from extending any further than adjacent docks.
2. Chapter 5-10 of the Town of Sullivan's Island's ordinances require an applicant seeking to construct to secure a building permit application.
3. Defendant/Respondent submitted an application and accepted a building permit from the Town that included provisions that the dock not extending any further into Cove Creek than adjacent docks.
4. It is undisputed that the dock extends further into Cove Creek then the adjacent docks.

Based on these findings I affirm the Municipal Court's Order.



The Honorable Kristi L. Harrington, Judge
Ninth Judicial Circuit

February 22, 2018
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2016 CP-10-5578

Town of Sullivan's Island
PLAINTIFF(S)

Michael Murray
DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: The appeal filed by Murray is denied. Based on the record, Murray acknowledged notice of the zoning laws and permit requirements and was found in violation. Murray has failed to demonstrate an error of law.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

2151
Judge Code

1/6/2017
Date

SCRPC Form 4C (12/2016)

Page 1 of 4

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

4



DEPARTMENT OF POLICE
OFFICIAL SUMMONS AND
ARREST RECORD

5713

CITY OF SULLIVAN'S ISLAND, S.C.

—VERSUS— SUMMONS No.

LAST NAME (PRINT) Murray FIRST NAME Erich MIDDLE NAME
ADDRESS 1533 Folley Road, Suite D5
CITY Charleston 29412 STATE SC

DESCRIPTION			OCCUPATION			
RACE	SEX	D.O.B.	HGT.	WT.	HAIR	EYES
<u>W</u>	<u>M</u>	<u>1-18-1954</u>	<u>6-0</u>	<u>185</u>	<u>BLD</u>	<u>Blue</u>

TRUCK
AUTO
STATE
LIC. NO. 0046-45-000

DRIVERS LICENSE NO. 0046-45-000 STATE SC

OWNER OF VEHICLE

DATE OF ARREST 10:45 am - June 29, 2016 ATTITUDE Good

LOCATION
OF ARREST 2050-B Middle St. S1 29482

NATURE OF OFFENSE Violation of Z.O. 21-75 Docks Construction
TOSI CODE 5-10 (SPEED)

YOU ARE HEREBY SUMMONED
TO APPEAR BEFORE MAGISTRATE

AT HIS OFFICE 2050-B Middle St, Sullivan's Island

ON DATE OF August 9, 2016 TIME 5:30 pm ^{SC}

BOND POSTED \$ 1040.00 ARRESTING OFFICER Joe Henderson, Z.A.

DATE OF TRIAL NOT GUILTY
GUILTY

REMARKS:

SENTENCE
IMPOSED

PAID FINE OF \$
FORFEITED BOND SENT TO JAIL FOR DAYS

BY
CERTIFIED CORRECT DISPOSITION MAGISTRATE

5

IN THE MUNICIPAL COURT

Michael Murray and Jason Tompkins,)
Defendants.)

of a dock at 1102 Osceola Avenue on Sullivan's Island. 1102 Osceola Avenue is owned by C & B Beach House, LLC ("C & B"). Defendant Jason Tompkins is a member of C & B.

In or around 2014, Tidewater Environmental Services, Inc., acting as permitting agent and consultant to C & B, submitted an application to the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management ("DHEC") for a permit authorizing construction of a private recreational dock at 1102 Osceola Avenue. DHEC issued a permit to C & B on May 15, 2014, the term of which extends until May 15, 2019. A copy of this permit is attached as Exhibit A to this Motion. Importantly, DHEC requires a permit drawings prepared by a licensed, professional surveyor. The permit drawings, Exhibit B, indicate a walkway of 584' extending to a fixed pier. A floating dock extends from one side of the fixed pier and a boatlift extends from the other side. The dock extends into the Cove. The following information is represented on the permit drawings – "Work will be conducted in compliance with the terms and conditions of the General Permit # 2011-00940." The referenced General Permit is issued by the U. S. Army Corps of Engineers (the "Corps") and includes a special condition (d): "Structures located on or adjacent to federally authorized waterways shall extend no closer than 80' feet from the near bottom edge of the federal channel" The Cove, at the location of the permitted dock, is part of the Atlantic Intracoastal Waterway and any dock constructed is required to maintain this off-set from the edge of the channel. The navigable channel of the Cove is a defined section within the waterway which has specific coordinates, is mapped, and is maintained by the Corps.

Upon receipt of the DHEC permit American Dock and Marine was hired to construct the dock. In accordance with the Town's ordinances Mike Murray sought and obtained an Accessory Structures Permit from the Town. The Town issued its Accessory Structures Permit

on June 30, 2014. The Accessory Structures Permit, attached as Exhibit C, does not include any specific terms and conditions. The Town also issued a Certificate of Zoning Compliance with a handwritten notation, under “Work Description” to “move pierhead, floating dock & boat lift landward to not exceed adjacent docks.” The Certificate of Zoning Compliance also includes “Special Conditions of Approval” – “Application approved provided shown pierhead with roof, floating dock, and boatlift meet the conditions of Zoning Ordinance Section 21-75 and that all structures meet a 10’foot setback form the extended lot lines.” The Certificate of Zoning Compliance is attached as Exhibit D.

A Building Permit Application was submitted, Exhibit E, which included a handwritten notation “not to exceed adjacent docks.” Similar notations were indicated on the DHEC permit (Page 5 of Exhibit A) but, importantly, under the Special Conditions listed on the DHEC permit the only condition added by the Town was that the Town would also receive a copy of the required as-built survey.

On June 28, 2016, Mr. Murray provided Joe Henderson, the Town’s Zoning Administrator, a copy of an As Built survey that indicated that the dock extended approximately 8’ from the seaward edge of adjoining docks. (Exhibit F). Mr. Henderson replied to Mr. Murray by email on June 28, 2016, advising that Mr. Murray is in violation of Z.O. 21-175(B)(1)¹ and the conditions of the Building Permit 14-0135. (Exhibit G.) Tickets were issued to Erich Murray² (Michael Murray’s son and employee) and to Jason Tompkins. Mr. Murray and Mr. Tompkins were placed under arrest on June 29, 2016 and charged with violations of the Town’s

¹ This is apparently a typographical area and is intended to be a reference to 21-75(B)(1) as is noted on the issued tickets.

² At the request of Michael Murray the Town has transferred responsibility for the ticket from Erich Murray to Michael Murray.

Zoning Ordinance Section 21-75 and the Town's Code Section 5-10. It is noted that in both instances a bond of \$1040.00 was posted.

Grounds for Dismissal

Zoning Ordinance 21-75(B)(1), cited as grounds for arrest, provides that "No dock shall be permitted to be constructed which extends into the channel or extends so far as to interfere with navigation." Here, there is no factual basis upon which to conclude that the dock at 1102 Osceola interferes with navigation. As is indicated on the As Built Survey, Exhibit F, the Cove as measured from marsh grass to marsh grass is 367 feet in width. The adjoining docks are located almost entirely behind the mean low water line ("MLW") indicating that there is no navigation available to the property owners of the adjoining docks for several hours and the docks sit in the mud. When navigation is available to users of the adjoining docks, the subject dock doesn't interfere with use of these docks. The only thing that interferes with use of the adjoining docks is the location of these docks landward of MLW. As is noted on the As Built survey the edge of the federal channel is located approximately 100 feet from subject dock. Consequently there is no basis to claim violation of 21-75(B)(1).

The Town claims through Mr. Henderson's email that the requirement set forth in 21-75(B)(1) was included as a condition of the Building Permit. But the Permit issued by the Town, Exhibit C, has no conditions included. There is an annotation on the application, Exhibit E, regarding not exceeding other structures but no reference to 21-75, the ordinance that the Town believes was violated. But more importantly, a review of the entirety of 21-75 demonstrates that there is no requirement in 21-75 limiting the seaward extension of a dock to the extension of neighboring docks. Such a requirement would make no sense. The purpose of dock construction is to provide water access. The seaward edge of adjoining docks is no indication of the location

of the waterbody in front of 1102 Osceola Avenue. The boundaries of the waterbody are dictated by "Edge of Marshgrass" (Exhibit F page 2/3). MLW is the initial indicator of navigability and, as a general rule, floating docks and boatlifts are located seaward of MLW to provide for access into the navigable portions of a waterbody. The boundary of the waterbody and the location of mean low water vary at every dock.

The tickets also cite the Town's code, Section 5-10. Section 5-10 requires that an applicant submit an application for a building permit prior to construction. It authorizes the Zoning Administrator to combine the building permit form with other forms and permits and allows approval to be indicated on these forms. Sufficient plans of the construction must be submitted. But here Mr. Murray and Mr. Tompkins complied with all requirements, submitted the appropriate forms, and obtained an approval to commence construction of the dock. There is no violation of the requirements of Section 5-10.

Absent a demonstration that an extension of 8' beyond adjacent structures in the AIWW where the width of the waterbody is 367' results in interfering with navigation, the Town cannot sustain its challenge that the dock violates ZO 21-75(B)(1). Importantly, 21-75 is silent as to any specific requirement "not to exceed adjacent docks." The Accessory Structures Permit is silent as to any conditions, although an effort was made to include a hand-written condition on the Application. Putting aside the argument that the Town is required to properly promulgate standards before enforcing them, the condition is ambiguous. Does it mean not to exceed in square footage or size? Another notation was hand-written on the DHEC permit "Move dock to not exceed adjacent docks." But that isn't the only notation – there is also a comment that "Boatlift ok as drawn." The Boatlift, as shown in the As Built, extends farther than the existing adjoining docks. This creates another ambiguity. If the boatlift is acceptable, then the comment

“move dock to not exceed adjacent docks” doesn’t lend itself to an interpretation to pull the dock behind MLW.

Legal Authority

This Motion to Dismiss is based on the Town’s lack of authority to require Mr. Murray or Mr. Tompkins to adhere to a requirement that is not expressly stated in the Town’s ordinances. “Ordinances ... are a valid exercise of a municipality’s authority. Municipalities are granted broad police powers to enact ordinances with respect to any subject which appears necessary and proper for the security, general welfare and convenience of the municipality. ... However, a decision of a municipal zoning board will be overturned if arbitrary. ...When exercising discretion, a local board must be guided by standards which are specific in order to prevent the ordinance from being invalid and arbitrary. ... The concept of vagueness or indefiniteness rests on the constitutional principle that procedural due process requires fair notice and proper standards for adjudication.” *See Peterson Outdoor Advertising v. City of Myrtle Beach*, 327 S. C. 230, 235, 489 S. E. 2d 630, 632 (1997.)

Here the Sullivan’s Island Zoning Administrator is acting in an arbitrary fashion in enforcing a standard for dock construction that has not been promulgated. “A governmental body’s decision is arbitrary if it is without a rational basis, is based alone on one’s will and not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards.” (Emphasis added.) *Pressley v. Lancaster County*, 343 S. C. 696, 704, 542 S. E. 2d 336, 370 (2001).

Defendants, however, have been denied the opportunity to challenge the decision of zoning administrator in a civil or administrative forum where these arguments can be made. Instead, Defendants were arrested. Sec. 21-192 addresses penalties for violation of the Zoning

Ordinance and provides that “Any person violating any provision of this Zoning Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined and/or imprisoned, as determined by the Municipal Court for each offense.” Since the Zoning Administrator applied an unwritten and arbitrary standard that is not included in the Zoning Ordinance, the arrests and tickets were not proper as such can only occur upon violation of the Ordinance.

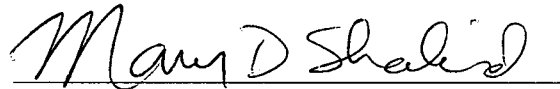
If the Town insists that the building permit was violated, as is stated in Zoning Administrator’s email, the record of approvals provided by the Town are in conflict and do not demonstrate a conditional approval. First, the Zoning Administrator indicated familiarity with establishing conditions on approvals by adding a new special condition, the requirement to provide an as-built survey, clearly writing it within the OCRM permit under Special Conditions. He did not, however, include as a hand-written Special Condition the additional requirement of reducing the seaward extension of the dock. On the permit drawings the Zoning Administrator wrote “Move dock to not exceed adjoining docks” but also wrote “Boatlift ok to be as drawn” which conflicts with any interpretation that this notation was a condition requiring reduction of the seaward extension of the dock. It also conflicts with the notation on the Certificate of Zoning Compliance to “move pierhead, floating and boat lift landward to not exceed adjacent docks.” But, perhaps more important than these ambiguities is the fact that the Zoning Administrator had no authority to impose this additional condition, absent promulgation of this express requirement.

Conclusion

A review of available aerial photography would indicate that, aside from being unauthorized, the issuance of the tickets is unwarranted. (Exhibit H) The seaward extension of the subject dock in relationship to the dock located to the northwest is barely perceptible. But

what is clear from the photo is that there is no uniformity to the waterfront adjoining Osceola Avenue. The Cove curves in a northwesterly direction creating variable distances between the docks and the federal channel. The boundaries of the Cove, represented as the blue line on Exhibit H, meander resulting in an irregular MLW line. There simply is no basis upon which to conclude that the Zoning Administrator's attempt to condition the approvals to limit the seaward extension of the subject dock furthered any of the requirements of Sec. 21-75.

For the reasons set forth herein Defendants Murray and Tompkins request dismissal of the tickets and return of the funds deposited as bond.



Mary D. Shahid, Esq.
Nexsen Pruet, LLC
205 King Street Suite 400
Charleston, SC 29401

P. O. Box 486
Charleston, SC 29402
Attorneys for Defendants

September 2, 2016

EXHIBIT

A

DEPARTMENT OF POLICE
OFFICIAL SUMMONS AND
ARREST RECORD

5713

CITY OF SULLIVAN'S ISLAND, S.C.
—VERSUS— SUMMONS No.

Murray Erich
LAST NAME (PRINT) FIRST NAME MIDDLE NAME
ADDRESS 1533 Folley Road, Suite D5
CITY Charleston 29412 STATE SC

DESCRIPTION				OCCUPATION		
RACE	SEX	D. O. B.	HGT.	WT.	HAIR	EYES
<u>W</u>	<u>M</u>	<u>1-18-1959</u>	<u>6'0"</u>	<u>185</u>	<u>BLK</u>	<u>Blue</u>

TRUCK
AUTO _____ STATE
LIC. NO. 0046-45-000

MAKE _____
DRIVERS LICENSE NO. 0046-45-000 STATE SC

OWNER OF VEHICLE _____

10:45 am - June 29, 2016 Good
DATE OF ARREST TIME ATTITUDE

LOCATION
OF ARREST 7050-B Middle St S1 29482

Violation of 2.C.21-75 Docks Construction
NATURE OF OFFENSE TOSL CODE 5-10 (SPEED)

YOU ARE HEREBY SUMMONED
TO APPEAR BEFORE MAGISTRATE _____

AT HIS OFFICE 7050-B Middle St, Sullivan's Island

ON DATE OF August 9, 2016 TIME 5:30 pm SC

\$ 1040.00 Joe Henderson, Z.A.
BOND POSTED ARRESTING OFFICER

DATE OF TRIAL _____ NOT GUILTY _____
GUILTY _____

REMARKS: _____

SENTENCE
IMPOSED _____

PAID FINE OF \$ _____ SENT TO
FORFEITED BOND JAIL FOR _____ DAYS

BY _____
CERTIFIED CORRECT DISPOSITION MAGISTRATE

COPY



DEPARTMENT OF POLICE
OFFICIAL SUMMONS AND
ARREST RECORD

5713

CITY OF SULLIVAN'S ISLAND, S.C.
—VERSUS—
SUMMONS NO.

LAST NAME (PRINT)

FIRST NAME

MIDDLE NAME

ADDRESS

CITY

STATE

DESCRIPTION

OCCUPATION

RACE

SEX

D.O.B.

HGT.

WT.

HAIR

EYES

TRUCK

AUTO

MAKE

STATE

LIC. NO.

DATE

TIME

LOCATION

NATURE OF OFFENSE

YOU ARE HEREBY SUMMONED
TO APPEAR BEFORE MAGISTRATE

DRIVERS LICENSE NO.

STATE

DATE

TIME

LOCATION

NATURE OF OFFENSE

YOU ARE HEREBY SUMMONED
TO APPEAR BEFORE MAGISTRATE

OWNER OF VEHICLE

DATE OF ARREST

TIME

LOCATION

NATURE OF OFFENSE

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TO APPEAR BEFORE MAGISTRATE

LOCATION

TIME

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NATURE OF OFFENSE

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TO APPEAR BEFORE MAGISTRATE



DEPARTMENT OF POLICE
OFFICIAL SUMMONS AND
ARREST RECORD

5714

CITY OF SULLIVAN'S ISLAND, S.C.
—VERSUS—
SUMMONS NO.

LAST NAME (PRINT)

FIRST NAME

MIDDLE NAME

ADDRESS

CITY

STATE

DESCRIPTION

OCCUPATION

RACE

SEX

D.O.B.

HGT.

WT.

HAIR

EYES

TRUCK

AUTO

MAKE

STATE

LIC. NO.

DATE

TIME

LOCATION

NATURE OF OFFENSE

YOU ARE HEREBY SUMMONED
TO APPEAR BEFORE MAGISTRATE

DRIVERS LICENSE NO.

STATE

DATE

TIME

LOCATION

NATURE OF OFFENSE

YOU ARE HEREBY SUMMONED
TO APPEAR BEFORE MAGISTRATE

OWNER OF VEHICLE

DATE OF ARREST

TIME

LOCATION

NATURE OF OFFENSE

YOU ARE HEREBY SUMMONED
TO APPEAR BEFORE MAGISTRATE

LOCATION

TIME

LOCATION

NATURE OF OFFENSE

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NATURE OF OFFENSE

YOU ARE HEREBY SUMMONED
TO APPEAR BEFORE MAGISTRATE

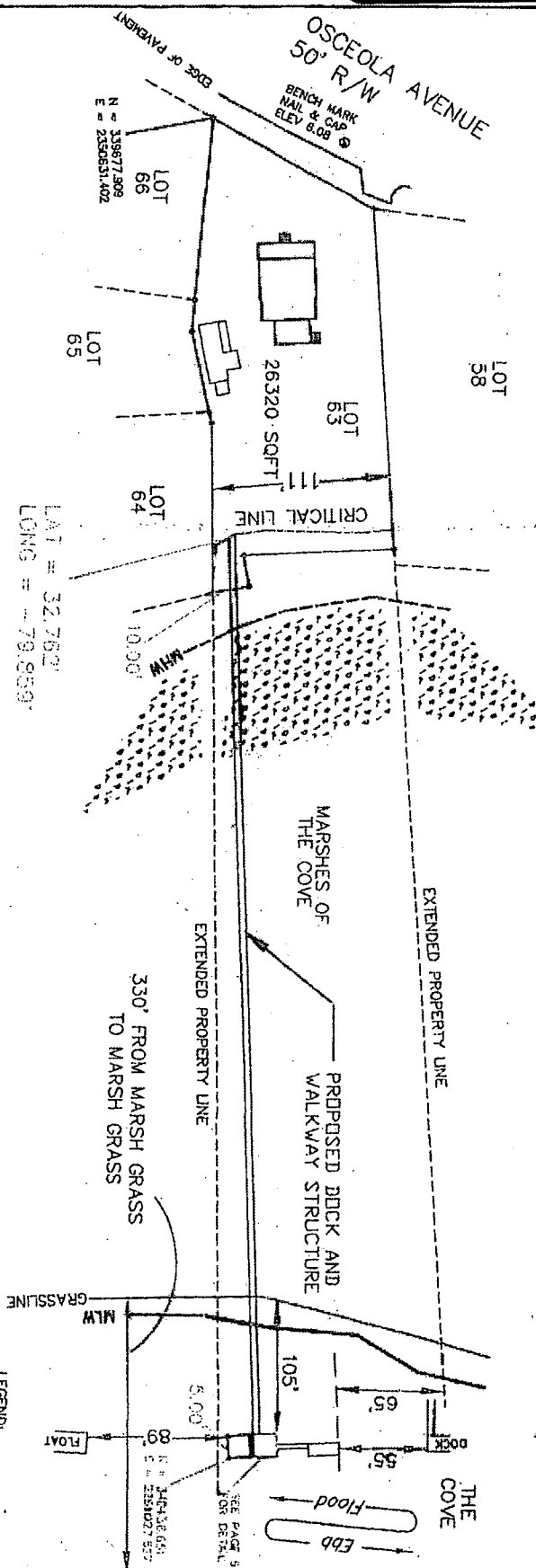
LOCATION

TIME

LOCATION

NATURE OF OFFENSE

YOU ARE HEREBY SUMMONED
TO APPEAR BEFORE MAGISTRATE

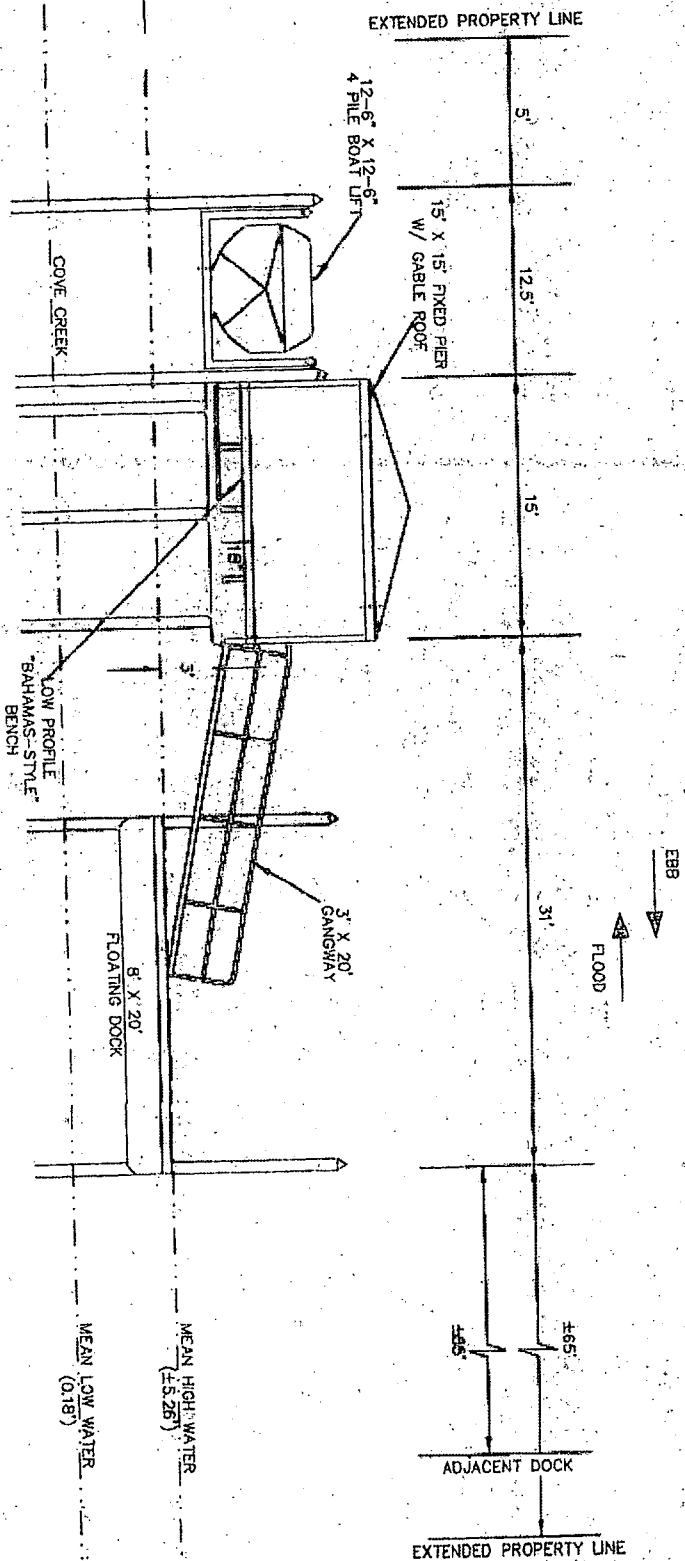


PROPOSED ACTIVITY: PRIVATE DOCK
CONSTRUCTION

AT: OSCEOLA AVENUE
SULLIVANS ISLAND, SC

COUNTY OF: CHARLESTON

P/N #/:
DATE: OCTOBER 2014



DOCK CROSS SECTION
SCALE 1"=10'

ELEVATIONS DEPICTED IN SECTION ARE REFERENCED TO MEAN LOW WATER. SECTIONS INDICATED ARE APPROXIMATE AND SHOULD BE VERIFIED DURING CONSTRUCTION.

PURPOSE: ENHANCE ACCESS TO INTRACOASTAL WATERWAY

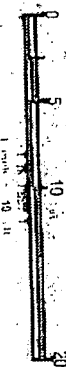
ADJACENT OWNERS:

1. LOT 58: DEAN G. KILPATRICK
2. LOT 64: LYDIA MATTHEWS
3. LOT 65: VINCENT SONSON & DIANNE DOTORIO
4. LOT 66: SEH TRUSTEE

SHEET: 3 OF 6

TIDEWATER
ENVIRONMENTAL SERVICES, INC.
38 ROMNEY STREET, SUITE 202
CHARLESTON, SC 29403
PHONE: (843) 762-3750 FAX: (843) 762-3795
WWW.TIDEWATERENVIRONMENTAL.COM

DOCK CROSS SECTION FRONT VIEW



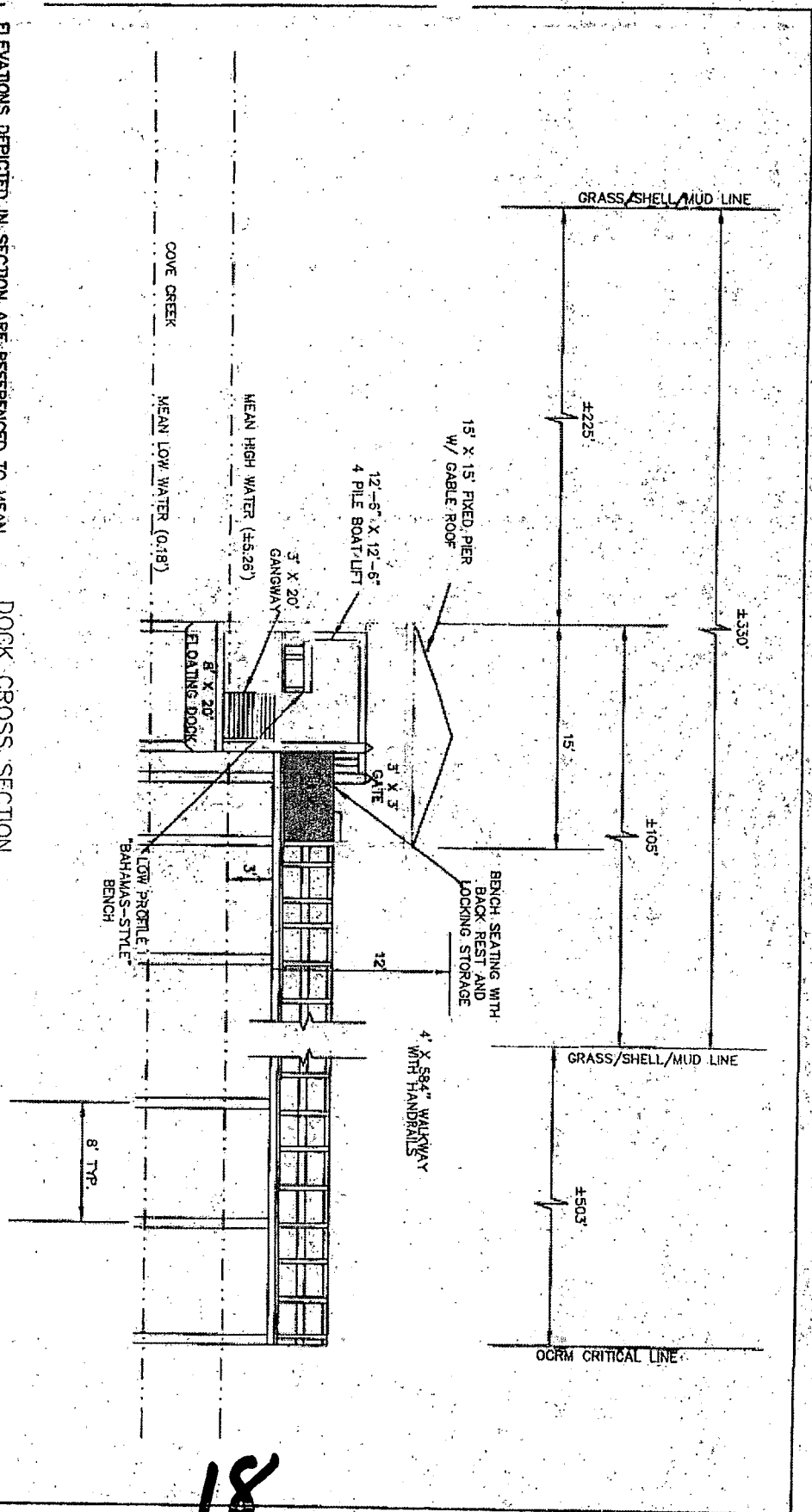
APPLICANT: MR. JASON TOMPKINS
C&B BEACH HOUSE, LLC
1102 OSCEOLA AVE
SULLIVANS ISLAND, SC 29482

PROPOSED ACTIVITY: PRIVATE DOCK CONSTRUCTION

AT: OSCEOLA AVENUE
SULLIVANS ISLAND, SC

COUNTY OF: CHARLESTON

P/N #/ DATE: OCTOBER 2014



ELEVATIONS DEPICTED IN SECTION ARE REFERENCED TO MEAN LOW WATER. SECTIONS INDICATED ARE APPROXIMATE AND SHOULD BE VERIFIED DURING CONSTRUCTION.

DOCK CROSS SECTION

SCALE 1"=10'

PURPOSE: ENHANCE ACCESS TO INTRACOASTAL WATERWAY

- ADJACENT OWNERS:
1. LOT 58: DEAN G. KILPATRICK
 2. LOT 64: LYDIA MATTHEWS
 3. LOT 65: VINCENT SONSON & DANNIE DOTORIO
 4. LOT 66: SEH TRUSTEE

TIDEWATER
ENVIRONMENTAL SERVICES INC.
38 ROUNEY STREET, SUITE 202
CHARLESTON, SC 29403
PHONE: (843) 762-3750, (843) 762-3795
WWW.TIDEWATERENVIRONMENTAL.COM

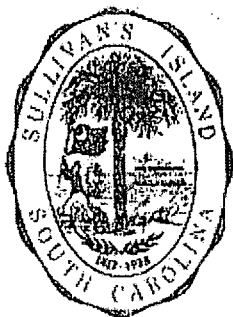
DOCK CROSS SECTION SIDE VIEW
1"=10'

APPLICANT: MR. JASON TOMPKINS,
C&B BEACH HOUSE, LLC
1102 OSCEOLA AVE.
SULLIVANS ISLAND, SC 29482

PROPOSED ACTIVITY: PRIVATE DOCK CONSTRUCTION
AT: OSCEOLA AVENUE, SULLIVANS ISLAND, SC
COUNTY OF: CHARLESTON
P/N: #/
DATE: OCTOBER 2014

18

EXHIBIT

C

Town of Sullivan's Island

Sullivan's Island, South Carolina

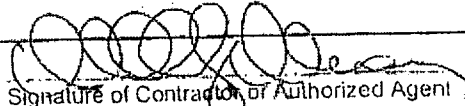
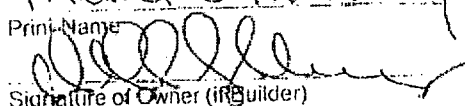
Accessory Structures Permit

Received
6-19-14

Sullivan's Island Building Department
2050-B Middle Street

Phone: (843) 883-3198
Sullivan's Island South Carolina

Fax: (843) 883-3009
<http://www.sullivanisland-sc.com>

Address of Work Site: 1102 Osceola Ave		TMS #: 5230700070		Zoning:	
Owner of Property: C & B Beach House LLC		Mailing Address: 29 Retreat Ln.			
Phone #: _____ Fax #: _____		Columbia		SC 29209	
Contractor: American Dock & Marine construction, Inc#12475		Mailing Address: 1533d-5 Folly Rd			
Phone #: 843 795 2999 Fax #: _____		Charleston		SC 29412	
City Business License #: _____		State License #: _____		Expiration Date: _____	
Architect/Designer: _____		Mailing Address: _____			
Phone #: _____ Fax #: _____					
Engineer: _____		Mailing Address: _____			
Phone #: _____ Fax #: _____					
Type of Work: Other		Explain Scope of Work: DOCK PERMIT			
 Signature of Contractor or Authorized Agent Michael S. Murray Print Name  Signature of Owner (if Builder)		Valuation of Work: \$ 123300.00 Valuation on Building Permits will be calculated by Building Department. Separate permits may be required. Subcontractor information must be provided. NOTE: ALL SEWER & WATER FEES MUST BE PAID PRIOR TO THE ISSUANCE OF PERMITS ON NEW CONSTRUCTION.			
		Total Amount Paid:			
Total Sq. Ft.	Total Impervious	Total Heated Sq. Ft.	# Bathrooms	HVAC	
Lot Sq. Ft.	Const. Type	Occupancy	Elec. Amp	Fire Sprinklers	
# Stories	# Dwelling Unit(s)	# Bedrooms	Flood Elevation	# of Seats	
Date Issued: 6/30/14		PERMIT NUMBER: 14-0135			
Issued By: kat		Permit Amount \$: 1372.40			

20

44552

EXHIBIT

D

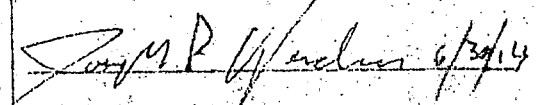
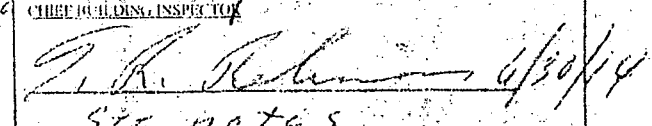
Town of Sullivan's Island

Sullivan's Island, South Carolina

CERTIFICATE OF ZONING COMPLIANCE

JOB ADDRESS: 1102 Osceola Avenue (American Dock and Marine Construction)		DATE OF APPLICATION: 6-21-2013
TMS #: 523-07-00-070		DATE PERMIT APPROVED: 6-26-2013
NAME OF APPLICANT / AGENT: Michael Murray		PHONE: 843-795-2999
MAILING ADDRESS: 1533 D Folly Road, Charleston SC 29209		FAX:
PRIMARY CONTACT PERSON:		PAGER:
MAILING ADDRESS:		PHONE:
		FAX:
		PAGER:
TYPE OF PERMIT: Site Plan Approval Landscape Plan Approval Building Addition Building Alteration / Renovation Change in Occupancy Class. Signage Tree Removal ☒ Dock and Pier Head Construction	WORK DESCRIPTION: Applicants request approval to construct a new pier head with roof, floating dock and boat lift. ~~Move dock & boat lift to 10' from extended property line.~~ J.R.R. 7/2/14 Move pier head, float & boat lift landward to not exceed adjacent docks.	

SPECIAL CONDITIONS OF APPROVAL: Application approved provided shown pier head with roof, floating dock, and boat lift meet the conditions of Zoning Ordinance Section 21-75 and that all structures meet a 10' foot setback from the extended lot lines.

NOTICE		SPECIAL APPROVALS	REQUIRED	APPROVED
In accordance with the Sullivan's Island Zoning Ordinance Article XIX, § 21-186, this document shall become the CERTIFICATE OF ZONING COMPLIANCE when approved by the Building Department. The issuance of this permit shall be construed to be a license to proceed with the application for a building permit or with the approved work if a building permit is not required. The issuance of this permit shall not be construed as authority to violate, alter, or set aside any provisions of the Sullivan's Island Zoning Ordinance, or any other codes, ordinances, or regulations of the Town of Sullivan's Island. The issuance of this permit shall not prevent the Building Department from hereafter requiring a correction of error in plans where such error violates the Zoning Ordinance or other codes, ordinances, or regulations of the Town of Sullivan's Island. No alterations and/or renovations to the existing conditions of the premises shall be performed unless specifically illustrated or noted on the approved plans or herein this permit. Deviations from the approved plans or conditions of approval stated herein may be made only after written approval is obtained from the Building Department. I hereby certify that I have read and understand the requirements of this permit, the conditions of approval of this permit, the conditions noted on the approved plans and that there are no restrictive covenants on the tract or parcel of land for which this permit is being requested (per SC Code § 6-29-11-45). I further understand that any deviation from the approved plans and conditions thereof shall constitute a violation of the Town of Sullivan's Island Zoning Ordinance.		Design Review Board	N/A	
		Board of Zoning Appeals	N/A	
		Planning Commission	N/A	
		Tree Board	N/A	
		Water and Sewer	N/A	
		Police & Fire	N/A	
		DIHEC-OCRM	N/A	
		ZONING ADMINISTRATOR  6/30/14 CHIEF BUILDING INSPECTOR  6/30/14 See notes		
NAME OF APPLICANT / AGENT: _____ DATE: _____ NAME OF CONTRACTOR: _____ DATE: _____				

21

EXHIBIT

E

Town of Sullivan's Island

Sullivan's Island, South Carolina

BUILDING PERMIT APPLICATION

Sullivan's Island Building Department
2050-B Middle Street

Phone: (843) 883-3198
Sullivan's Island South Carolina

FAX: (843) 883-3009

Address of Work Site: 1102 Osceola Ave. FMS# 523-07-00-070 Zoning: _____

Owner of Property: _____ Mailing Address: _____

Phone #: _____ Fax #: _____

Contractor: AMERICAN DOCK MARINE Mailing Address: 1533 D. S. Folly Road

Phone #: 795-2999 Fax #: 762-5838

City Business License #: 1205 State License #: 12475 Expiration Date: 10/31/2014

Architect/Designer: _____ Mailing Address: _____

Phone #: _____ Fax #: _____

Engineer: _____ Mailing Address: _____

Phone #: _____ Fax #: _____

Type of Work: New ☒ Addition ☐ Alteration ☐ Repair ☐ Move ☐ Remove ☐ Other ☐

Commercial ☒ Residential ☐ Other ☐

Explain Scope of Work: Construction of dock

Signature of Contractor or Authorized Agent: Michael J. Murray

Print Name: Michael J. Murray

Signature of County Clerk: [Signature]

Print Name: [Name]

VALUATION OF WORK: \$123,300.00

Valuation on Building Permits will be calculated by Building Department. Separate permits may be required. Subcontractor information must be provided.

NOTE: ALL SEWER & WATER FEES MUST BE PAID PRIOR TO THE ISSUANCE OF PERMITS ON NEW CONSTRUCTION.

APPROVED [Signature] as noted

Approvals	Building	Zoning	Total Sq. Ft.	Total Impervious	Total Heated Sq. Ft.
Building Permit	\$		Total Sq. Ft.	Const. Type	Occupancy
Electrical Permit			# Stories	# Dwelling Units	# Bedrooms
Plumbing Permit			# Bathrooms	Disc. Amp	HVAC
Mechanical Permit			Roof Elevation	Fire Sprinklers	# of Signs
Gas Permit			Date Issued: _____		
Sign Permit			Issued By: _____		
Plan Review Fee			Permit #	Permit Amt \$	
Fire Sprinklers					
Other					
Total Amount Due \$					

22

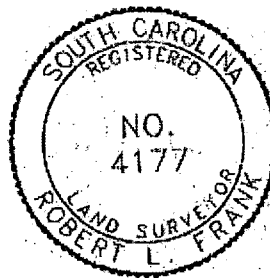
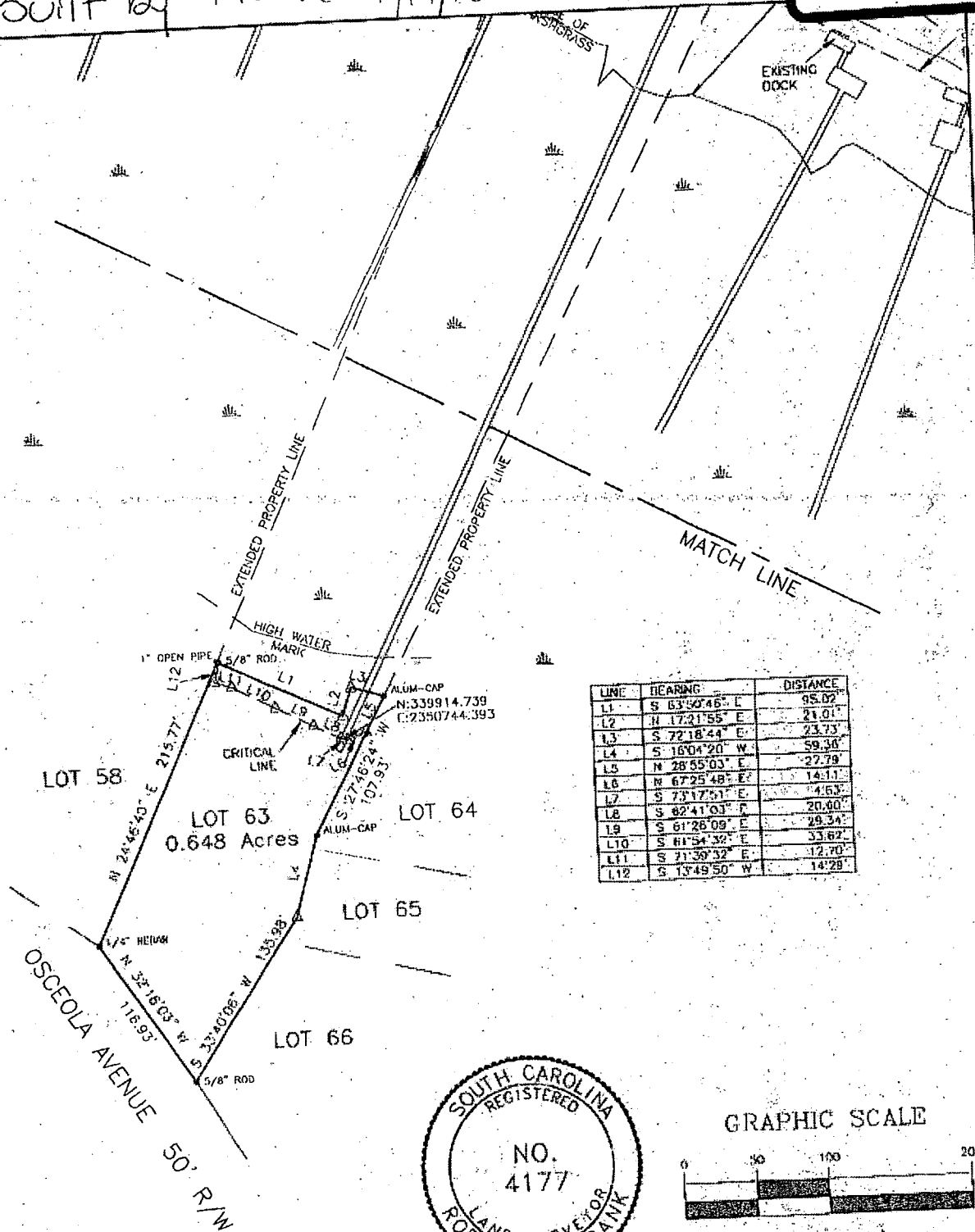
Must not exceed adjacent docks * S.I.B. 7/2/14

EXHIBIT

F

As Built by Frank 7/19/16

CRID NAD-83
(2011)



APPLICATION BY:
C AND B BEACH HOUSE, LLC

ADDRESS: 1102 OSCEOLA AVE.

DATE: JULY 19, 2016

REVISED:

LOCATION

AN AS BUILT OF A
RECREATIONAL DOCK
AT 1102 OSCEOLA AVE.
LOCATED ON "THE COVE"
SULLIVANS ISLAND
CHARLESTON COUNTY
SOUTH CAROLINA

SHT. NAME

FULL PLAN
VIEW

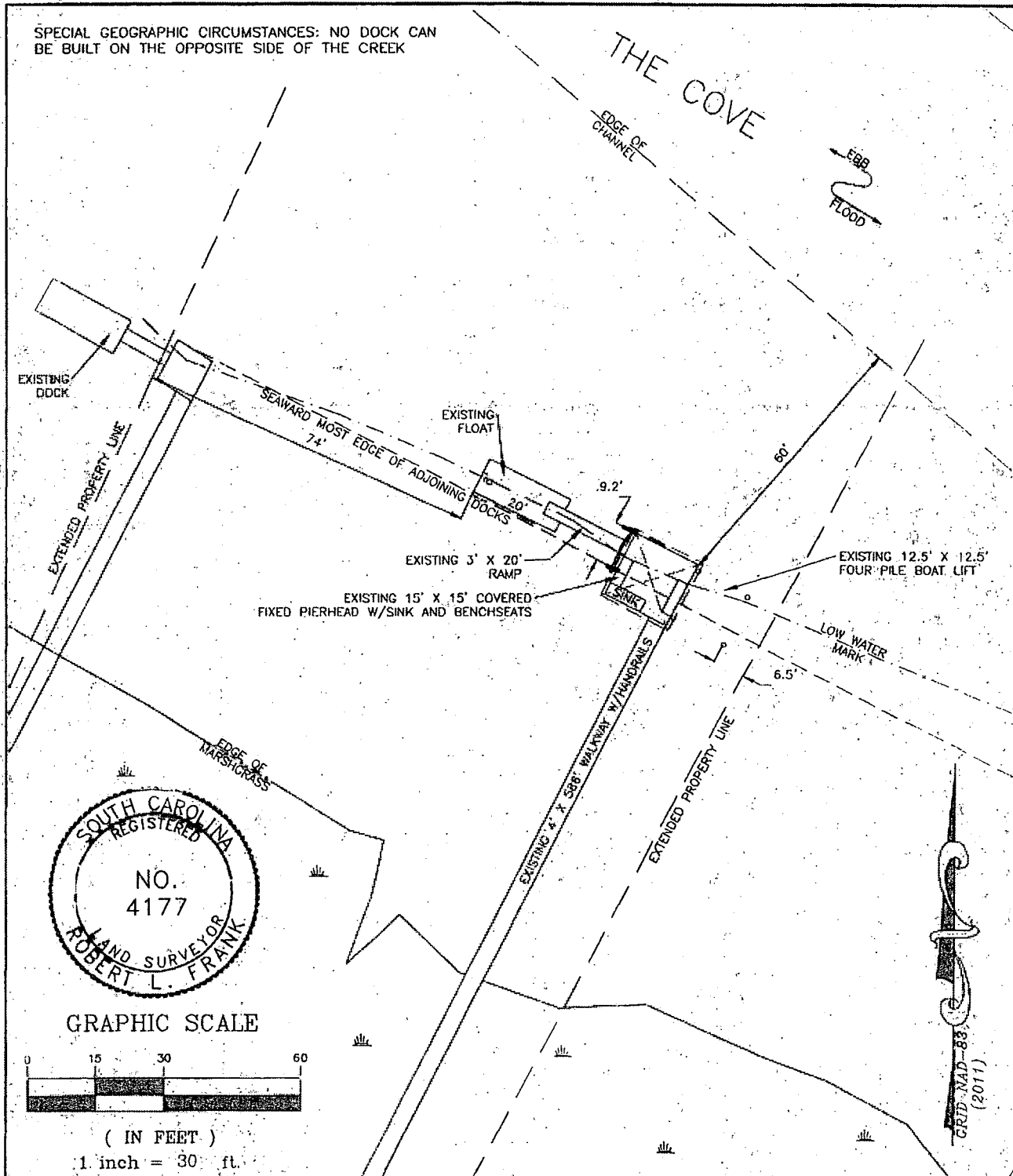
TMS #523-07-00-070

SHT. NO.

1 OF 3

23

SPECIAL GEOGRAPHIC CIRCUMSTANCES: NO DOCK CAN
BE BUILT ON THE OPPOSITE SIDE OF THE CREEK



APPLICATION BY:
C AND B BEACH HOUSE, LLC
ADDRESS: 1102 OSCEOLA AVE.
DATE: JULY 19, 2016
REVISED:

LOCATION AN AS BUILT OF A
RECREATIONAL DOCK.
AT 1102 OSCEOLA AVE.
LOCATED ON: "THE COVE"
SULLIVANS ISLAND
CHARLESTON, COUNTY
SOUTH CAROLINA

SHT. NAME
PLAN
VIEW
TMS #523-07-00-070.

SHT. NO.
3 OF 3

25



>
> Mr. Murray,
>
> I've attached several pictures taken during my inspection of June 27th
> and an aerial rendering showing the walkway, pier head and floating
> dock at 1102 Osceola. Also attached, is a copy of your Building Permit
> that shows you agreed to meet the Town's requirements (i.e. that the
> walkway, pier head and floating dock must not be constructed any
> closer to the creek than either of the adjacent docks so as not to
> interfere with the navigation of vessels). This is a requirement of
> Z.O. 21-175 (B) (1), and was noted as a condition on Building Permit
> 14-0135.
>
> If possible, I would like to meet with you to discuss this violation,
> either tomorrow, June 29th or Tuesday, July 5th. Please let me know
> your availability.
>
> Thank you,
>
> _____
>
> Joe Henderson, AICP, CFM
>
> Zoning Administrator, ISA Arborist
>
> TOWN OF SULLIVAN'S ISLAND
>
> 2050-B Middle Street | SC 29482
>
> Tel 843.883.5731 | Fax 843.883.3009
>
> jhenderson@sullivansisland-sc.com
>
> -----Original Message-----
> From: American Dock & Marine Construction
> [<mailto:ammarine@americandock.net>]
> Sent: Tuesday, June 28, 2016 12:27 PM
> To: Joe Henderson
> Subject: Jason Tompkins As Built Survey and Consent Letter-1102
> Osceola
>
> Good afternoon Mr. Henderson,
>
> Please find attached as built survey of 1102 Osceola Dr. along with
> the consent letter from adjacent property owner. The issue in question
> of whether the dock has been sited approx. 8' too far into the creek
> was a matter that was solved in 2015. There is between 8'-10' of
> upland walkway that was constructed in Mr. Tompkins yard that should
> have been designated as such or not included in the final drawing.
>

Charleston County GIS Viewer Exhibit H



1:1880

Town of Sullivan's Island vs Michael Murray
2016-CP-10-5578 Exhibits

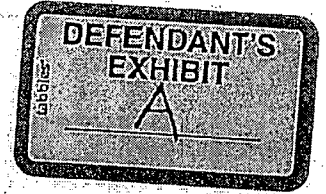
J. LAWRENCE DUFFY, JR.
MUNICIPAL JUDGE

FRANCIS J. CORNELLY
ASSOCIATE JUDGE

TOWN OF SULLIVAN'S ISLAND
MUNICIPAL COURT



October 13, 2016



RECEIVED
OCT 19 2016

Mary D. Shahid, Esq.
Nexsen Pruet, LLC
Post Office Box 486
Charleston, SC 29402

RE: Town of Sullivan's Island Ticket 5713 - Michael Murray and Ticket 5714 - Jason Tompkins

Dear Mrs. Shahid:

This matter was tried on October 4, 2016 and your client Jason Tompkins was found to be not guilty. Mr. Michael Murray was convicted of the offense, and the ticket shows a fine of \$1040 due.

Sincerely,

Ellen L. Miller

Office of Clerk of Court

28

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

Town of Sullivan's Island,

Case No. 2016-CP-10- 5578

Plaintiff/Respondent

vs.

Michael Murray,

APPEAL FROM MUNICIPAL
COURT DECISION

S. C. Code Ann. 14-25-95

Defendant/Appellant.

FILED
2016 OCT 20 PM 1:39
JULIE J. ARMSTRONG
CLERK OF COURT

TO: JOHN DODDS, ESQ., AND THE TOWN OF SULLIVAN'S ISLAND:

**YOU WILL PLEASE TAKE NOTICE THAT THE UNDERSIGNED, ON
BEHALF OF DEFENDANT/APPELLANT MICHAEL MURRAY HEREBY APPEALS
THE DECISION OF THE MUNICIPAL JUDGE OF THE TOWN OF SULLIVAN'S
ISLAND TICKET #5713.**

The judgement of the Municipal Judge of the town of Sullivan's Island is embodied in a letter received by the undersigned on October 19, 2016, and attached to this Appeal as Exhibit A. The grounds for this Appeal are set forth as follows.

Background

Defendant/Respondent Michael Murray is the owner of American Dock and Marine Construction ("American Dock and Marine). Mr. Murray is a licensed marine contractor who holds a 100 ton Captain's license and has over forty years of marine and marine construction experience. American Dock and Marine specializes in dock construction, boatlifts, erosion control solutions, and any construction activity impacting wetlands or waters. Mr. Murray supervised construction of a dock at 1102 Osceola Avenue on Sullivan's Island. 1102 Osceola

Avenue is owned by C & B Beach House, LLC ("C & B"). Jason Tompkins is a member of C & B.

In or around 2014, Tidewater Environmental Services, Inc., acting as permitting agent and consultant to C & B, submitted an application to the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management ("DHEC") for a permit authorizing construction of a private recreational dock at 1102 Osceola Avenue. DHEC issued a permit to C & B on May 15, 2014, the term of which extends until May 15, 2019. A copy of this permit is attached as Exhibit B¹ to this Appeal. The permit drawings indicate a walkway of 584' extending to a fixed pier. A floating dock extends from one side of the fixed pier and a boatlift extends from the other side. The dock extends into the Cove on the back side of Sullivan's Island. The following information is represented on the permit drawings – "Work will be conducted in compliance with the terms and conditions of the General Permit # 2011-00940." The referenced General Permit is issued by the U. S. Army Corps of Engineers (the "Corps") and includes a special condition (d): "Structures located on or adjacent to federally authorized waterways shall extend no closer than 80' feet from the near bottom edge of the federal channel" The Cove, at the location of the permitted dock, is part of the Atlantic Intracoastal Waterway and any dock constructed is required to maintain this off-set from the edge of the channel. The navigable channel of the Cove is a defined section within the waterway which has specific coordinates, is mapped, and is maintained by the Corps.

Upon receipt of the DHEC permit American Dock and Marine was hired to construct the dock. In accordance with the Town's ordinances Mike Murray sought and obtained an Accessory Structures Permit from the Town. The Town issued its Accessory Structures Permit on June 30, 2014. The Accessory Structures Permit, attached as Exhibit C, does not include any

¹ All referenced Exhibits from this point forward were admitted before the Municipal Court.

specific terms and conditions. The Town also issued a Certificate of Zoning Compliance with a handwritten notation, under "Work Description" to "move pierhead, floating dock & boat lift landward to not exceed adjacent docks." The Certificate of Zoning Compliance also includes "Special Conditions of Approval" – "Application approved provided shown pierhead with roof, floating dock, and boatlift meet the conditions of Zoning Ordinance Section 21-75 and that all structures meet a 10' foot setback from the extended lot lines." The Certificate of Zoning Compliance is attached as Exhibit D. Under "Work Description" there are handwritten notes – "Move pierhead, floater & Boat lift landward to not exceed adjacent docks." But these handwritten notes are not reflected in the section entitled "Special Conditions of Approval."

A Building Permit Application was submitted, Exhibit E, which included a handwritten notation "not to exceed adjacent docks." Similar notations were indicated on the DHEC permit (Page 5 of Exhibit A) but, importantly, under the Special Conditions listed on the DHEC permit the only condition added by the Town was that the Town would also receive a copy of the required as-built survey.

On June 28, 2016, Mr. Murray provided Joe Henderson, the Town's Zoning Administrator, a copy of an As Built survey that indicated that the dock extended approximately 8' channel-ward of the seaward edge of adjoining docks. (Exhibit F). Mr. Henderson replied to Mr. Murray by email on June 28, 2016, advising that Mr. Murray is in violation of Z.O. 21-175(B)(1)² and the conditions of the Building Permit 14-0135. (Exhibit G.) Tickets were issued to Erich Murray³ (Michael Murray's son and employee) and to Jason Tompkins. Mr. Murray and Mr. Tompkins were placed under arrest on June 29, 2016 and charged with violations of the

² This is apparently a typographical error and is intended to be a reference to 21-75(B)(1) as is noted on the issued tickets.

³ At the request of Michael Murray the Town has transferred responsibility for the ticket from Erich Murray to Michael Murray.

Town's Zoning Ordinance Section 21-75 and the Town's Code Section 5-10. It is noted that in both instances a bond of \$1040.00 was posted. The undersigned filed a Motion to Dismiss with the Sullivan's Island Municipal Court and appeared before the Court on October 4, 2016. The Municipal Judge, the Honorable Frank Cornely, did not rule on the Motion and a hearing in this matter was conducted the evening of October 4, 2016. As is noted in the written decision received by the undersigned on October 19, 2016, Mr. Tompkins, the property owner was acquitted but Mr. Murray was convicted of violation of the Town's Zoning Ordinance.

Grounds for Appeal

Zoning Ordinance 21-75(B)(1), cited as grounds for arrest, provides that "No dock shall be permitted to be constructed which extends into the channel or extends so far as to interfere with navigation." Here, there is no factual basis upon which to conclude that the dock at 1102 Osceola interferes with navigation. As is indicated on the As Built Survey, Exhibit F, the Cove as measured from marsh grass to marsh grass is 367 feet in width. The adjoining docks are located almost entirely behind the mean low water line ("MLW") indicating that there is no navigation available to the property owners of the adjoining docks for several hours and the docks sit in the mud. When navigation is available to users of the adjoining docks, the subject dock doesn't interfere with use of these docks. The only thing that interferes with use of the adjoining docks is the location of these docks landward of MLW. As is noted on the As Built survey the edge of the federal channel is located approximately 100 feet from subject dock. Consequently there is no basis to claim violation of 21-75(B)(1). And, the Town's witnesses provided no testimony at the hearing on October 4, 2016 regarding the navigational impact of the dock. Moreover, the Town's witnesses acknowledged that nobody had complained to the Town regarding the location of the dock.

The Town claims through Mr. Henderson's email, Exhibit G, that the requirement set forth in 21-75(B)(1) was included as a condition of the Building Permit. But the Permit issued by the Town, Exhibit C, has no conditions included. There is an annotation on the application, Exhibit E, regarding not exceeding other structures but no reference to 21-75, the ordinance that the Town believes was violated. But more importantly, a review of the entirety of 21-75 demonstrates that there is no requirement in 21-75 limiting the seaward extension of a dock to the extension of neighboring docks. Such a requirement would make no sense. The purpose of dock construction is to provide water access. The seaward edge of adjoining docks is no indication of the location of the waterbody in front of 1102 Osceola Avenue. The boundaries of the waterbody are dictated by "Edge of Marshgrass" (Exhibit F page 2/3). MLW is the initial indicator of navigability and, as a general rule, floating docks and boatlifts are located seaward of MLW to provide for access into the navigable portions of a waterbody. The boundary of the waterbody and the location of mean low water vary at every dock.

The tickets also cite the Town's code, Section 5-10. Section 5-10 requires that an applicant submit an application for a building permit prior to construction. But here it is undisputed that Mr. Murray and Mr. Tompkins complied with all requirements, submitted the appropriate forms, and obtained an approval to commence construction of the dock. There is no evidence of a violation of any of the requirements of Section 5-10.

Absent a demonstration that an extension of approximately 8 feet beyond adjacent structures in the AIWW where the width of the waterbody is 367' results in interfering with navigation, the Town cannot sustain its challenge that the dock violates ZO 21-75(B)(1). Importantly, 21-75 is silent as to any specific requirement "not to exceed adjacent docks." The Accessory Structures Permit is silent as to any conditions, although an effort was made to

include a hand-written condition on the Application. Putting aside the argument that the Town is required to properly promulgate standards before enforcing them, the condition is ambiguous. Does it mean not to exceed in square footage or size? Another notation was hand-written on the DHEC permit "Move dock to not exceed adjacent docks." But that isn't the only notation – there is also a comment that "Boatlift ok as drawn." The Boatlift, as shown in the As Built, extends farther than the existing adjoining docks. This creates another ambiguity. If the boatlift is acceptable, than the comment "move dock to not exceed adjacent docks" doesn't lend itself to an interpretation to pull the dock behind MLW. The Town's Zoning Administrator, Mr. Henderson, testified before the Municipal Court that the requirement "not to exceed adjacent docks" was the Town's interpretation and policy.

Legal Authority and Allegations of Error

This Appeal is based on the Town's lack of authority to require Mr. Murray to adhere to a requirement that is not expressly stated in the Town's ordinances. "Ordinances ... are a valid exercise of a municipality's authority. Municipalities are granted broad police powers to enact ordinances with respect to any subject which appears necessary and proper for the security, general welfare and convenience of the municipality. ... However, a decision of a municipal zoning board will be overturned if arbitrary. ... When exercising discretion, a local board must be guided by standards which are specific in order to prevent the ordinance from being invalid and arbitrary. ... The concept of vagueness or indefiniteness rests on the constitutional principle that procedural due process requires fair notice and proper standards for adjudication." Peterson Outdoor Advertising v. City of Myrtle Beach, 327 S. C. 230, 235, 489 S. E. 2d 630, 632 (1997.) "Criminal ordinances are, of course, to be strictly construed and a defendant has a right to know just where he is charged with the commission of a crime" Town of Conway v. Lee. Same v.

Drayton et al., 209 S. C. 11, 38 S. E. 2d 914 (1946). “The basic principles of statutory construction as applied to criminal statutes have been clearly and repeatedly set forth by our Supreme court and by this court. It is well established that in interpreting a statute, the court’s primary function is to ascertain the intention of the legislature. When the terms of the statute are clear and unambiguous, the court must apply them according to their literal meaning. Furthermore, in construing a statute, words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute’s operation. Finally when a statute is penal in nature, it must be construed strictly against the State and in favor of the defendant.” The State v. Leopard, 349 S. C. 467, 563 S. E. 2d 342 (2002).

Here the Sullivan’s Island Zoning Administrator is acting in an arbitrary fashion in enforcing a standard for dock construction that has not been promulgated. “A governmental body’s decision is arbitrary if it is without a rational basis, is based alone on one’s will and not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards.” (Emphasis added.) Pressley v. Lancaster County, 343 S. C. 696, 704, 542 S. E. 2d 336, 370 (2001). Since the Zoning Administrator applied an unwritten and arbitrary standard that is not included in the Zoning Ordinance, the arrest and conviction of Mr. Murray was not proper as such can only occur upon violation of the Ordinance.

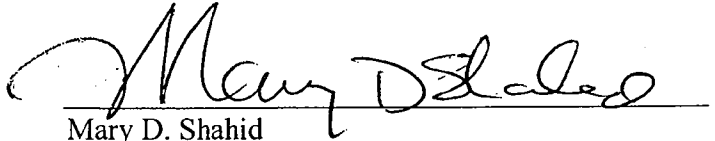
It is also significant for resolution of this appeal that the record of approvals provided by the Town are in conflict and do not demonstrate a conditional approval. First, the Zoning Administrator indicated familiarity with establishing conditions on approvals by adding a new special condition, the requirement to provide an as-built survey, clearly writing it within the OCRM permit under Special Conditions. He did not, however, include as a hand-written Special

Condition the additional requirement of reducing the seaward extension of the dock. On the permit drawings the Zoning Administrator wrote "Move dock to not exceed adjoining docks" but also wrote "Boatlift ok to be as drawn" which conflicts with any interpretation that this notation was a condition requiring reduction of the seaward extension of the dock. It also conflicts with the notation on the Certificate of Zoning Compliance to "move pierhead, floating and boat lift landward to not exceed adjacent docks." But, perhaps more important than these ambiguities is the fact that the Zoning Administrator had no authority to impose this additional condition, absent promulgation of this express requirement.

Conclusion

A review of available aerial photography would indicate that, aside from being unauthorized, the issuance of the tickets is unwarranted. (Exhibit H) The seaward extension of the subject dock in relationship to the dock located to the northwest is barely perceptible. But what is clear from the photo is that there is no uniformity to the waterfront adjoining Osceola Avenue. The Cove curves in a northwesterly direction creating variable distances between the docks and the federal channel. The boundaries of the Cove meander resulting in an irregular MLW line. There simply is no basis upon which to conclude that the Zoning Administrator's attempt to condition the approvals to limit the seaward extension of the subject dock furthered any of the requirements of Sec. 21-75.

For the reasons set forth herein Defendant/Respondent Murray requests that this Court overturn the conviction for violation of the Town's Zoning Ordinance Sec. 21-75 and 5-10.



Mary D. Shahid
NEXSEN PRUET, LLC
205 King Street, Suite 400 (29401)
P.O. Box 486
Charleston, SC 29402
843.577.9440

Attorney for Defendant/Respondent Michael
Murray

October 20, 2016
Charleston, South Carolina

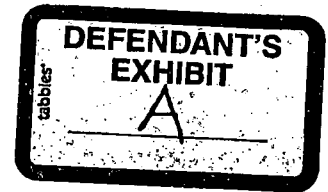
J. LAWRENCE DUFFY, JR.
MUNICIPAL JUDGE

FRANCIS J. CORNELLY
ASSOCIATE JUDGE

TOWN OF SULLIVAN'S ISLAND
MUNICIPAL COURT



October 13, 2016



RECEIVED
OCT 19 2016

Mary D. Shahid, Esq.
Nexsen Pruet, LLC
Post Office Box 486
Charleston, SC 29402

RE: Town of Sullivan's Island Ticket 5713 - Michael Murray and Ticket 5714 - Jason Tompkins

Dear Mrs. Shahid:

This matter was tried on October 4, 2016 and your client Jason Tompkins was found to be not guilty. Mr. Michael Murray was convicted of the offense, and the ticket shows a fine of \$1040 due.

Sincerely,

Ellen L. Miller
Office of Clerk of Court

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DEFENDANT'S
EXHIBIT

B

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

CRITICAL AREA PERMIT & COASTAL ZONE CONSISTENCY CERTIFICATION

Permittee(s): C & B Beach House, LLC

Permit Number(s): OCRM-14-094-B

Date of Issuance: May 15, 2014

Expiration Date: May 15, 2019

Location: On and adjacent to The Cove at 1102 Osceola Avenue, Sullivan's Island,
Charleston County, South Carolina. TMS: 523-07-00-070.

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 (Supp. 2005). Please carefully read the project description and any special conditions that may 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. If there are no special conditions, then the work is authorized as described in the project description and as modified by the general conditions. 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 project if work commences during the life of the permit. This applies to permittee, future property owners, or permit assignees.

DESCRIPTION OF THE PROJECT, AS AUTHORIZED

The permitted work will consist of constructing a private recreational dock. Specifically, the permittee is authorized to construct a 4' x 584' walkway, with handrails, leading to a covered 15' x 15' pierhead. Ebbside of the pierhead, a 3' x 20' ramp will access an 8' x 20' floating dock. Floodside of the pierhead, a 12.5' x 12.5', four-pile boatlift is proposed. The work as described is for private, recreational use.

SPECIAL CONDITIONS

1. Provided the proposed walkway and fixed pierhead are constructed a minimum of 3' above mean high water.
2. Provided the handrails are constructed to what is minimally required for safety as outlined in the Southern Building Code.
3. Provided that any disturbed critical area adjacent to the construction site be restored to original contours and conditions upon project completion.
4. Once the project is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.
5. Provided that an as-built survey of the dock must be submitted to the Department within 90 days of the expiration date of the final construction placard. The survey must be performed by a registered land surveyor, must show all components of the dock, and must list the starting and ending coordinates of the dock walkway in the SC State Plane Coordinate System, which can be obtained by survey-grade Global Positioning System equipment.

Also provided
to Sullivan's
Island. 6/30/14 [signature]

6. Provided that in the event that archaeological or paleontological remains are found during the course of work, the applicant should notify the South Carolina Institute of Archaeology and Anthropology (Mr. James Spirek at 803-777-8170) pursuant to South Carolina Underwater Antiquities Act of 1991, (Article 5 Chapter 7, Title 54, Code of Laws of South Carolina, 1976). Archaeological remains consist of any materials made or altered by man, which remain from past historic or prehistoric times (ie, older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures, or non-recent vessel remains. Paleontological remains consist of old animal remains, original or fossilized, such as teeth, tusks, bone, or entire skeletons.

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.

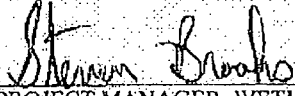
Permit Number: OCRM-14-094-B

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


(PERMITTEE(S))
C & B Beach House, LLC

5/21/14
(DATE)

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


(PROJECT MANAGER, WETLAND SECTION)
Steven Brooks
or his Designee Other Authorized State Official

5/15/14
(DATE)

GENERAL CONDITIONS:

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

1. That 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 OCRM 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. That 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. That all authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. That 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. That 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. That the permittee shall permit OCRM or its authorized agents or representatives to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. That any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by OCRM.
8. That this permit may not be transferred to a third party without prior written notice to OCRM, 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. That 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. That 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. That 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. That the authorization for activities or structures herein constitutes a revocable license. OCRM may require the permittee to modify activities or remove structures authorized herein if it is determined by OCRM 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 OCRM intends to revoke the permit, Permittee agrees to immediately stop work pending resolution of the revocation.
13. That OCRM 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 OCRM'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, OCRM shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to OCRM. (South Carolina Code Section 1-23-370 shall govern the procedure for revocation, suspension or modification herein described).
14. That any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against OCRM or the State of South Carolina or any employee, agent, or representative of OCRM or the State of South Carolina.
15. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be 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. That 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 OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.

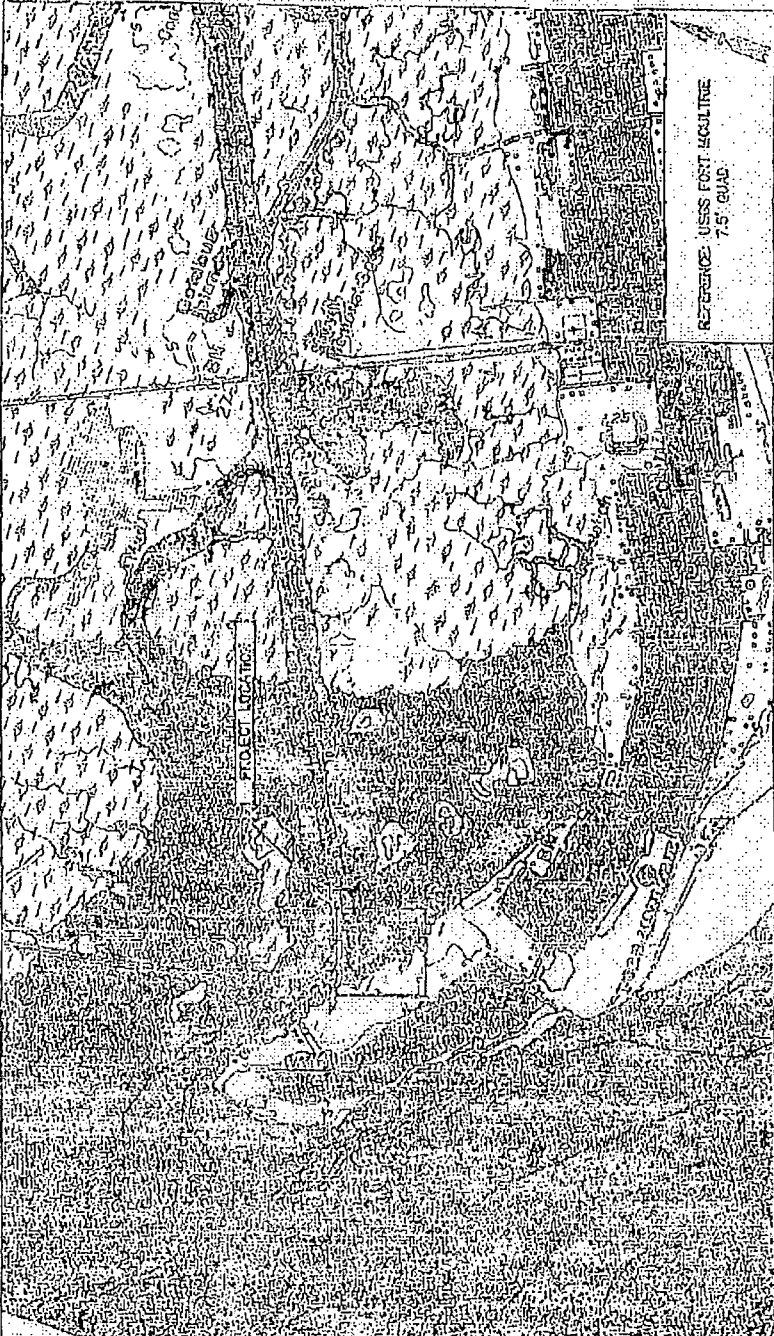
FOR THE DISTRICT OFFICE TO RECONSTRUCT THE HIGHWAY	
ACADEMY OF THE 1. LOT 66, DEED 6, REPARCK 2. LOT 66, DEED 6, REPARCK 3. LOT 66, DEED 6, REPARCK 4. LOT 66, DEED 6, REPARCK 5. LOT 66, DEED 6, REPARCK	
STIDEWATER ENVIRONMENTAL SERVICES INC. 30 BERRY STREET, SUITE 200 ROCKFORD, IL 60087 TEL: (815) 774-3700 FAX: (815) 774-3700 WWW.STIDEWATERINC.COM	
EXISTING CONDITIONS: APPLICANT: MR. JASON TOWNS AND LISA WILSON, LTD AND LISA WILSON, LTD SALVAGE ISLAND, SC 29462	
PROPOSED ACTIVITY: PRIVATE DOCK CONSTRUCTION AP: OSCOLA AVENUE BELLINGHAM, WA, SC COUNTY OF CHARLESTON P/R 4/1 DATE: MARCH 2004	

OCRM-14-091-B

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[illegible]

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	PURPOSE: BRIDGE ACCESS TO WATERWAY APPLICANT OWNERS: 1. LOT 32: DEAN G. KILPATRICK 2. LOT 64: LYNN LANTIERIS 3. LOT 88: WILSON LANTIERIS & JANE LANTIERIS 4. LOT 98: JANE LANTIERIS SHEET 1 OF 5	LOCATION MAP NOT TO SCALE APPLICANT: MR. JASON TOLSONIS O&B BEACH HOUSE, LLC 1102 OSCEOLA AVENUE SULLIVANS ISLAND, SC 29482	REFERENCE: USSS FORT ACQUINE 7.5' QUAD. PROPOSED ACTIVITY: PRIVATE DOCK CONSTRUCTION AT: OSCEOLA AVENUE SULLIVANS ISLAND, SC COUNTY OF: CHARLESTON P/N 8/1 DATE: MARCH 2014
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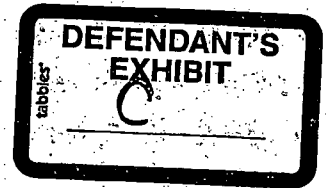
CRM-14-094-B



Town of Sullivan's Island

Sullivan's Island, South Carolina

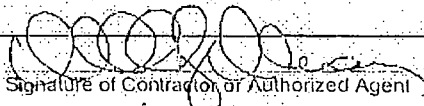
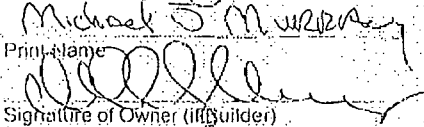
Accessory Structures Permit



Sullivan's Island Building Department
2050-B Middle Street

Phone: (843) 883-3198
Sullivan's Island South Carolina

Fax: (843) 883-3009
<http://www.sullivanisland-sc.com>

Address of Work Site: 1102 Osceola Ave		TMS #: 5230700070		Zoning:	
Owner of Property: C & B Beach House LLC		Mailing Address: 29 Retreat Ln			
Phone #:	Fax #:	Columbia		SC	29209
Contractor: American Dock & Marine construction, Inc#12475		Mailing Address: 1533d-5 Folly Rd			
Phone #: 843 795 2999	Fax #:	Charleston		SC	29412
City Business License #:		State License #:		Expiration Date:	
Architect/Designer:		Mailing Address:			
Phone #:	Fax #:				
Engineer:		Mailing Address:			
Phone #:	Fax #:				
Type of Work: Other		Explain Scope of Work: DOCK PERMIT			
 Signature of Contractor or Authorized Agent		Valuation of Work: \$ 123300.00			
 Print Name: Michael S. Murray Signature of Owner (if builder)		Valuation on Building Permits will be calculated by Building Department. Separate permits may be required. Subcontractor information must be provided. NOTE: ALL SEWER & WATER FEES MUST BE PAID PRIOR TO THE ISSUANCE OF PERMITS ON NEW CONSTRUCTION.			
Total Amount Paid:					
Total Sq. Ft.	Total Impervious	Total Heated Sq. Ft.	# Bathrooms	HVAC	
Lot Sq. Ft.	Const. Type	Occupancy	Elec. Amp	Fire Sprinklers	
# Stories	# Dwelling Unit(s)	# Bedrooms	Flood Elevation	# of Seats	
Date Issued: 6/30/14		PERMIT NUMBER: 14-0135			
Issued By: kat		Permit Amount \$: 1372.40			

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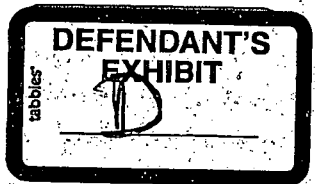
44552



Town of Sullivan's Island

Sullivan's Island, South Carolina

CERTIFICATE OF ZONING COMPLIANCE



JOB ADDRESS: 1102 Osceola Avenue (American Dock and Marine Construction)		DATE OF APPLICATION: 6-21-2013	
TMS #: 523-07-00-070		DATE PERMIT APPROVED: 6-26-2013	
NAME OF APPLICANT / AGENT: Michael Murray		PHONE: 843-795-2999	
MAILING ADDRESS: 1533 D Folly Road, Charleston SC 29209		FAX:	
PRIMARY CONTACT PERSON:		PAGER:	
MAILING ADDRESS:		PHONE:	
		FAX:	
		PAGER:	
TYPE OF PERMIT: Site Plan Approval Landscape Plan Approval Building Addition Building Alteration / Renovation Change in Occupancy Class. Signage Tree Removal ☒ Dock and Pier Head Construction		WORK DESCRIPTION: Applicants request approval to construct a new pier head with roof, floating dock and boat lift. <i>Have deck (boat lift) to not form extended property line. F.R.R. 7/2/14</i> <i>Have pier head, floatin + Boat lift Landward to not exceed adjacent docks.</i>	
SPECIAL CONDITIONS OF APPROVAL: Application approved provided shown pier head with roof, floating dock, and boatlift meet the conditions of Zoning Ordinance Section 21-75 and that all structures meet a 10' foot setback from the extended lot lines.			
NOTICE In accordance with the Sullivan's Island Zoning Ordinance Article XIX, § 21-186, this document shall become the CERTIFICATE OF ZONING COMPLIANCE when approved by the Building Department. The issuance of this permit shall be construed to be a license to proceed with the application for a building permit or with the approved work if a building permit is not required. The issuance of this permit shall not be construed as authority to violate, alter, or set aside any provisions of the Sullivan's Island Zoning Ordinance, or any other codes, ordinances, or regulations of the Town of Sullivan's Island. The issuance of this permit shall not prevent the Building Department from hereafter requiring a correction of error in plans where such error violates the Zoning Ordinance or other codes, ordinances, or regulations of the Town of Sullivan's Island. No alterations and/or renovations to the existing conditions of the premises shall be performed unless specifically illustrated or noted on the approved plans or herein this permit. Deviations from the approved plans or conditions of approval stated herein may be made only after written approval is obtained from the Building Department. I hereby certify that I have read and understand the requirements of this permit, the conditions of approval of this permit, the conditions noted on the approved plans and that there are no restrictive covenants on the tract or parcel of land for which this permit is being requested (per SC Code §6-29-1143). I further understand that any deviation from the approved plans and conditions thereof shall constitute a violation of the Town of Sullivan's Island Zoning Ordinance.			
NAME OF APPLICANT / AGENT		DATE	
NAME OF CONTRACTOR		DATE	
		SPECIAL APPROVALS	
		REQUIRED	
		APPROVED	
		Design Review Board	
		Board of Zoning Appeals	
		Planning Commission	
		Tree Board	
		Water and Sewer	
		Police & Fire	
		DHEC-OCRM	
		ZONING ADMINISTRATOR	
		<i>[Signature]</i> 6/30/14	
		CHIEF BUILDING INSPECTOR	
		<i>[Signature]</i> 6/30/14	
		Site notes	



Town of Sullivan's Island

Sullivan's Island, South Carolina

BUILDING PERMIT APPLICATION

DEFENDANT'S
EXHIBIT

E

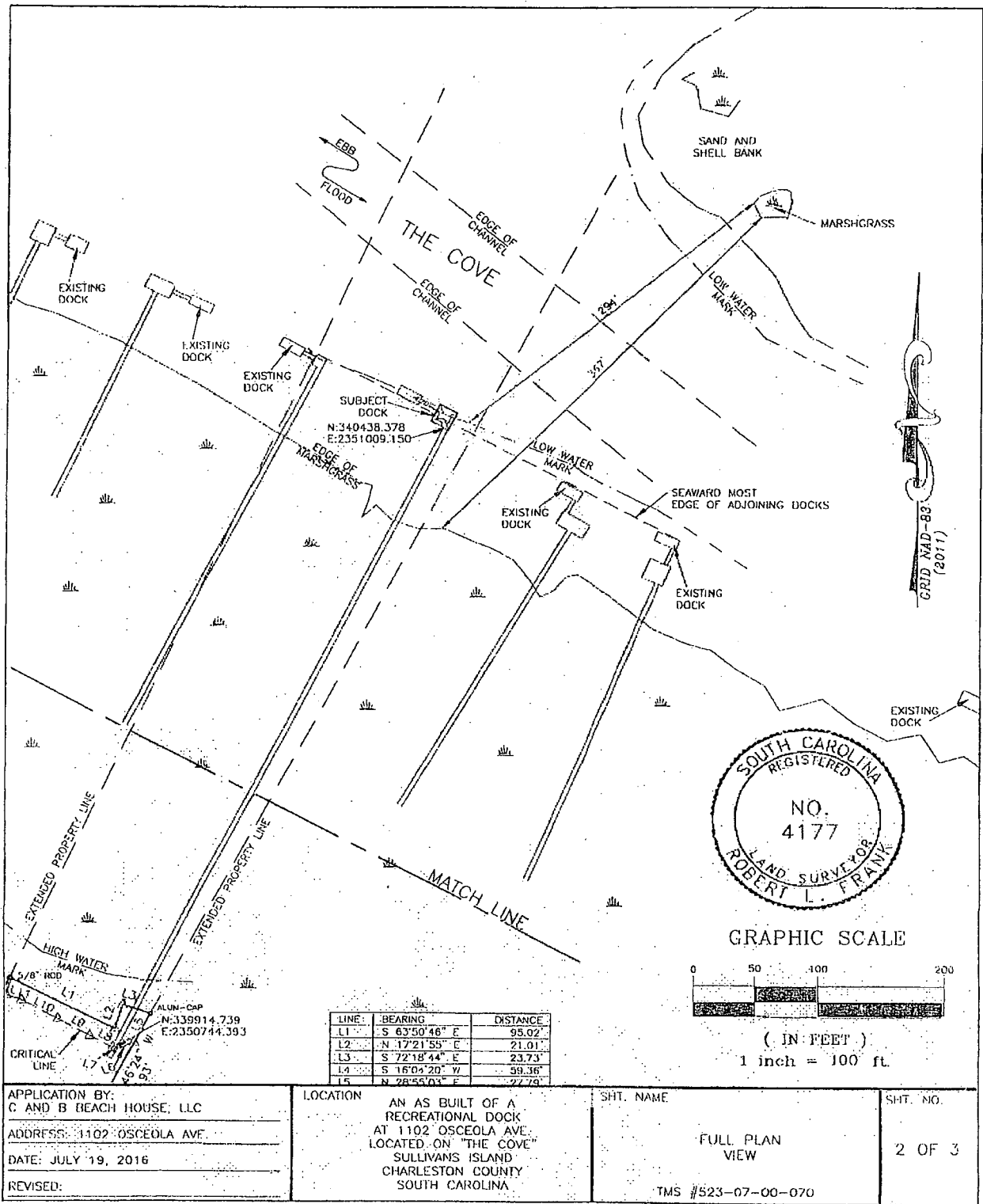
Sullivan's Island Building Department
2050-B Middle Street

Phone: (843) 883-3198
Sullivan's Island South Carolina

FAX: (843) 883-3009

Address of Work Site: <u>1102 Osceola Ave.</u>		FMS# <u>523-07-00-070</u>	Zoning: _____
Owner of Property: _____		Mailing Address: _____	
Phone #:	Fax #:		
Contractor: <u>American Dock Marine</u>		Mailing Address: <u>1533 D.S. Folly Road</u>	
Phone #:	<u>795-2499</u>	Fax#:	<u>762-5838</u>
City Business License #:	<u>1205</u>	State License #:	<u>12475</u>
Expiration Date:		<u>10/31/2014</u>	
Architect/Designer: _____		Mailing Address: _____	
Phone #:	Fax#:		
Engineer: _____		Mailing Address: _____	
Phone #:	Fax#:		
Type of Work: New ☒ Addition ☐ Alteration ☐ Repair ☐ Move ☐ Remove ☐ Other ☐			
Commercial ☒ Residential ☐ Other ☐			
Explain Scope of Work: <u>Construction of dock</u>			
Signature of Contractor or Authorized Agent <u>Michael J. Murray</u> Print Name: <u>Michael J. Murray</u> Signature of Owner (if different): _____ Print Name: _____		VALUATION OF WORK: <u>\$123,300.00</u> Valuation on Building Permits will be conducted by Building Department. Separate permits may be required. Subcontractor information must be provided. NOTE: ALL SEWER & WATER FEES MUST BE PAID PRIOR TO THE ISSUANCE OF PERMITS ON NEW CONSTRUCTION.	
Approvals	Building <u>T.M.</u>	Zoning <u>6-30-14</u>	
Building Permit	\$	Total Sq. Ft.	Total Impervious
Electrical Permit		Lot Sq. Ft.	Crust. Type
Plumbing Permit		# Stories	# Dwelling Unit
Mechanical Permit		# Bathrooms	Elec. Amp
Gas Permit		Floor Elevation	Fire Sprinklers
Sign Permit			# of Seats
Plan Review Fee		Date Issued: _____	
Fire Sprinklers		Issued By: _____	
Other		Permit # _____ Permit Amt \$ _____	
Total Amount Due \$			

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EXHIBIT

G

>
> Mr. Murray,
>
> I've attached several pictures taken during my inspection of June 27th
> and an aerial rendering showing the walkway, pier head and floating
> dock at 1102 Osceola. Also attached, is a copy of your Building Permit
> that shows you agreed to meet the Town's requirements (i.e. that the
> walkway, pier head and floating dock must not be constructed any
> closer to the creek than either of the adjacent docks so as not to
> interfere with the navigation of vessels). This is a requirement of
> Z.O. 21-175 (B) (1), and was noted as a condition on Building Permit
> 14-0135.
>
> If possible, I would like to meet with you to discuss this violation,
> either tomorrow, June 29th or Tuesday, July 5th. Please let me know
> your availability.
>
> Thank you,
>
> _____
>
> Joe Henderson, AICP, CFM
>
> Zoning Administrator, ISA Arborist
>
> TOWN OF SULLIVAN'S ISLAND
>
> 2050-B Middle Street | SC 29482
>
> Tel 843.883.5731 | Fax 843.883.3009
>
> jhenderson@sullivansisland-sc.com
>
> -----Original Message-----
> From: American Dock & Marine Construction
> [<mailto:ammarine@americandock.net>]
> Sent: Tuesday, June 28, 2016 12:27 PM
> To: Joe Henderson
> Subject: Jason Tompkins As Built Survey and Consent Letter-1102
> Osceola
>
> Good afternoon Mr. Henderson,
>
> Please find attached as built survey of 1102 Osceola Dr. along with
> the consent letter from adjacent property owner. The issue in question
> of whether the dock has been sited approx. 8' too far into the creek
> was a matter that was solved in 2015. There is between 8'-10' of
> upland walkway that was constructed in Mr. Tompkins yard that should
> have been designated as such or not included in the final drawing.
>

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Charleston County GIS Viewer Exhibit H



1:1880

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
TOWN OF SULLIVAN'S ISLAND,)
)
Plaintiff/Respondent)
VS.)
)
MICHAEL MURRAY,)
)
Defendant/Appellant.)
_____)

IN THE MUNICIPAL COURT FOR
THE TOWN OF SULLIVAN'S ISLAND

CASE NO: 2016-CP-10-05578

RETURN TO NOTICE OF INTENT
TO APPEAL

FILED
2016 DEC 29 PM 2:27
JULIE J. ARMSTRONG
CLERK OF COURT
BY AL

Responding to the Defendant/Appellant's Notice of Intent to Appeal, the undersigned would respectfully show as follows:

1) THAT the Defendant, Michael Murray, appeared on October 4, 2016 to answer to the charges enumerated on ticket number 5713, specifically that the Defendant violated Town ordinances Section 5-10 and Section 21-75.

2) THAT the Defendant was represented by Mary D. Shahid, Esquire and the Town was represented by John Dodds, Esquire. Both parties indicated to the Court that they were ready to proceed and were desirous of a bench trial.

3) THAT after hearing all the testimony presented by both the Defendant and the Town, the undersigned found the Defendant, Michael Murray, guilty and imposed a fine in the amount of One Thousand Forty (\$1,040.00) dollars.

4) THAT a timely Notice of Intent to Appeal was filed.

5) THAT the Defendant by and through his attorney appeals the Court's decision because: "Town's lack of authority to require Michael Murray to adhere to a requirement that is not expressly stated in the Town's ordinance."

6) THAT in reply to this appeal the Court would request that the entire trial transcript

along with the exhibits presented at trial be introduced and be made a part of the record of the appeal.

7) THAT it is undisputed that:

- A) An application permit for a dock at 1102 Osceola Avenue was received by the Town on June 19, 2014.
- B) The application permit and building permit were approved with notations by the Town on June 30, 2014. (1)
- C) The Certificate of Zoning Compliance was approved with notations by the Town on June 30, 2014.
- D) The dock was completed in late 2014 but an asbuilt survey was not submitted to the Town by the Defendant, Michael Murray, until June 28, 2016.
- E) The problem with the dock was discovered when a Certificate of Occupancy was applied for by the homeowner on June 27, 2016.
- F) The above-referenced ticket was issued on June 29, 2016.

8) THAT testifying on behalf of the Town was Joseph Henderson who is the Zoning Administrator for the Town of Sullivan's Island.

- A) Mr. Henderson testified that he had a meeting with the dock building company and the engineer hired by the homeowner.
- B) Mr. Henderson testified that he participated in an email exchange with the engineer about the fact that the dock was conditionally approved but only if the dock did not extend beyond adjacent docks.
- C) Mr. Henderson testified that he brought the problem to the attention of the homeowner when he was completing the inspection for the Certificate of Occupancy on June 27, 2016.
- D) Mr. Henderson testified that he spoke with the homeowner about the problem with the dock and that the dock builder never submitted a asbuilt survey which was required and would have brought the problem with the dock to the Town's attention earlier.
- E) Mr. Henderson testified that he emailed the Defendant, Michael Murray,

(1) The notations on the building permit application and certificate of zoning compliance were: pierhead, floating dock, and boat lift cannot exceed adjacent docks."

about the problem with the dock after the inspection for the Certificate of Occupancy.

9) THAT testifying on behalf of the Town was Thomas Robinson who is the Chief Building Inspector for the Town of Sullivan's Island:

- A) Mr. Robinson testified that the building permit issued to the Defendant, Michael Murray, had a notation that the dock could not extend beyond adjacent docks.
- B) Mr. Robinson testified that the Town required an asbuilt survey from the Defendant, Michael Murray, to make sure that the dock did not extend beyond adjacent docks.
- C) Mr. Robinson testified that an asbuilt survey was received on June 28, 2016, almost two years after the completion of the dock.

10) THAT the homeowner, Jason Thompkins, testified:

- A) Mr. Thompkins testified that he engaged an engineer, a surveyor and a dock builder for the purposes of building a dock on the property in question. At the time he initiated this action he was living in Columbia, South Carolina.
- B) Mr. Thompkins testified that his surveyor gave the asbuilt survey to the Defendant, Michael Murray, and Mr. Murray was supposed to forward it to the Town of Sullivan's Island.
- C) Mr. Thompkins testified that he assumed based on the assurances of the dock builder that the asbuilt survey was forwarded to the Town of Sullivan's Island.
- D) Mr. Thompkins testified that the first time he knew that the dock was built in violation of the ordinances was on June 27, 2016 when he had a conversation with Mr. Henderson, when Mr. Henderson came out to the property in reference to the Certificate of Occupancy.

11) THAT the dock builder, Michael Murray, testified:

- A) Mr. Murray testified that he acknowledged that he was told not to build the dock any further out than the adjacent docks.
- B) Mr. Murray testified that his crew did the best they could with lining barges up and looking at adjacent docks.

- C) Mr. Murray testified that it was not his intention to disregard the Town's ordinance.
- D) Mr. Murray testified that he did not send the asbuilt survey back to the Town until after the problem with the dock was discovered.
- E) Mr. Murray testified that it was an oversight and it was mishandled or misplaced by his office.
- F) Mr. Murray took responsibility for the fact that the asbuilt survey was never forwarded to the Town of Sullivan's Island.
- G) Mr. Murray testified that either he or his crew made a mistake but that he accepted responsibility for that.

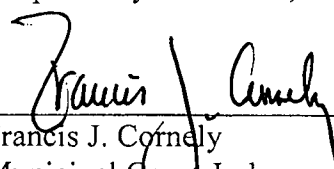
12) THAT Based on the testimony presented, it is clear that the Defendant, Michael Murray, made a mistake building the dock further out than the adjacent docks. Mr. Murray was aware of that condition from the building permit. Mr. Murray further did not turn in the asbuilt survey to the Town of Sullivan's Island as is required. Mr. Murray took responsibility for the violation and further that Mr. Murray indicated that it was not the fault of the homeowner, Jason Thompkins.

13) THAT after hearing all the testimony the Court found the homeowner, Jason Thompkins, not guilty of violating the Town ordinances but the Court did find that the Defendant, Michael Murray, guilty of violating the Town ordinances.

Charleston, South Carolina

December 29th, 2016

Respectfully submitted,



Francis J. Cornely
Municipal Court Judge
for the Town of Sullivan's Island

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Town of Sullivan's Island,

Plaintiff,

vs.

Michael Murray,

Defendant.

IN THE COURT OF COMMON PLEAS

Case No. 2016-CP-10-5578

**MOTION TO ALTER OR AMEND
JUDGMENT OR FOR A NEW TRIAL
IN ACCORDANCE WITH SCRC
RULE 59**

FILED
2017 JAN 25 PM 4:03
JULIE ARMSTRONG
CLERK OF COURT

**TO: PLAINTIFF, THE TOWN OF SULLIVAN'S ISLAND, THROUGH ITS
ATTORNEY JOHN DODDS.**

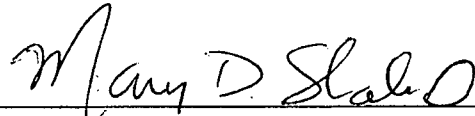
YOU WILL PLEASE TAKE NOTICE THAT Defendant, by and through the undersigned, will move before the Honorable Kristi Lea Harrington, Resident Circuit Court Judge, Ninth Judicial Circuit, for an Order in accordance with SCRC Rule 59 altering or amending the Court's judgment and disposition of this case, a copy of which is attached.¹

The grounds for this Motion are as follows: The Court denied Defendant's appeal based on the following: *"The appeal filed by Murray is denied. Based on the record, Murray acknowledged notice of the zoning laws and permit requirements and was found in violation. Murray has failed to demonstrate error of law."* This ruling does not address the primary issue raised by Defendant which is the whether the Town of Sullivan's Island can enforce a requirement that has not been promulgated and is merely an interpretation by the Town of its authority and whether such enforcement can be in the form of a criminal prosecution. The Town pursued criminal prosecution of the Defendant, charging him with a misdemeanor offense punishable by a

¹ Defendant's counsel learned of the issuance of this Order upon inspection of the Charleston County Court of Common Pleas website on January 24, 2017.

fine and/or imprisonment. Whether the Defendant thought he was required to comply with the Town's unwritten interpretation of its ordinance is not relevant to the issues raised by Defendant which relate to the Town's inherent ability to enforce a requirement as a misdemeanor violation when such requirement was never properly promulgated and is simply Town policy.

Therefore the Defendant seeks an Order of the Court addressing Defendant's allegation and position that the Town cannot enforce a requirement that a newly constructed dock not exceed the channelward extension of the docks on either side as such requirement is admittedly Town policy and not embodied in the Town's very specific ordinance governing dock construction.



Mary D. Shahid
NEXSEN PRUET, LLC
205 King Street, Suite 400 (29401)
P.O. Box 486
Charleston, SC 29402
843.577.9440

Attorneys for Defendant
Michael Murray

January 25, 2017
Charleston, South Carolina

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016 CP-10-5578

Town of Sullivan's Island
PLAINTIFF(S)Michael Murray
DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: The appeal filed by Murray is denied. Based on the record, Murray acknowledged notice of the zoning laws and permit requirements and was found in violation. Murray has failed to demonstrate an error of law.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

2151

Judge Code

1/6/2017

Date

SCRPC Form 4C (12/2016)

Page 1 of 4

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For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON
PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

[illegible]

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From: John Dodds <john@cisadodds.com>
Sent: Friday, March 2, 2018 3:32 PM
To: Shahid, Mary D. <MShahid@nexsenpruet.com>
Cc: Larry Dodds <ldodds@dhs-lawfirm.com>; Pam Otto <POtto@sullivanisland-sc.com>
Subject: Town of Sullivan's Island v. Michael Murray; Case # 2016-CP-10-5578

Mary: Attached is a certified copy of the Order in Response to Defendant/Appellant's Motion to Alter and Amend in the above referenced action denying your request that the Judge alter or amend her previous Order dismissing your client's appeal, as well as the formal Notice from the Clerk's Office which I received in this afternoon's mail.

I've copied the Clerk of Court for Sullivan's Island Municipal Court so she'll be aware that Mr. Murray may stop by and/or mail the monetary fine previously imposed by Judge Cornely.

Hope you gave a great weekend. John.

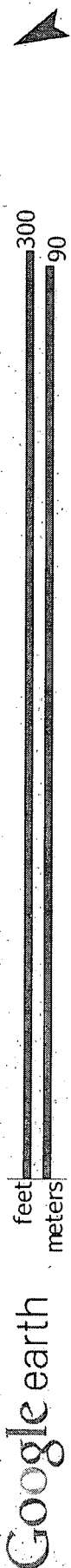
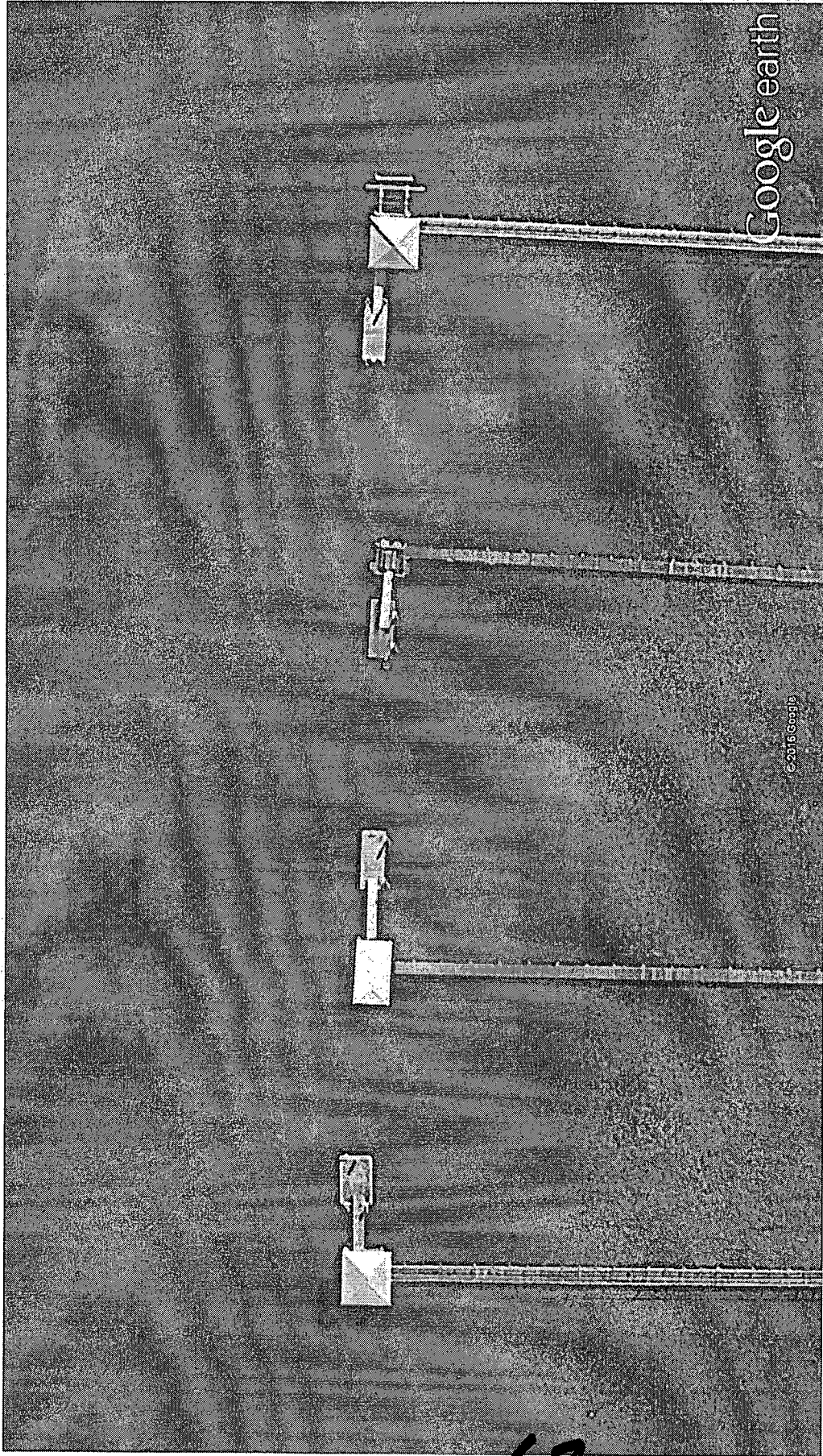
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Google earth

feet
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ORDINANCE TO AMEND CHAPTER 21
OF THE
ZONING ORDINANCES FOR THE TOWN OF SULLIVAN'S ISLAND

WHEREAS, Chapter 21 of the Town of Sullivan's Island Ordinance which is cited as "The Zoning Ordinance" was originally enacted in 1977; and

WHEREAS, the Town of Sullivan's Island has, from time to time, amended certain sections of The Zoning Ordinance; and

WHEREAS, the Town of Sullivan's Island was mindful to make comprehensive revisions to The Zoning Ordinance and sought plans and procedures whereby professional zoning consultation, citizen input and Town staff would come together to make the comprehensive revisions needed to The Zoning Ordinance; and

WHEREAS, the Town of Sullivan's Island retained the services of Cooper Consulting, Inc. who are known as Planning and Zoning experts; and

WHEREAS, Cooper Consulting, Inc. held three (3) public workshops whereby citizen input was invited and accepted and after reviewing the existing Zoning Ordinances together with the citizens input at public meetings and further citizen and Town staff input by way of written and verbal communications, Cooper Consulting, Inc. produced a proposed draft of a comprehensive amendment to the Town of Sullivan's Island Zoning Ordinances; and

WHEREAS, upon receipt of the proposed draft, the Town Council directed the Planning Commission to hold public hearings and to make further review and recommendations; and

WHEREAS, the Planning Commission held numerous public hearings and after review it rendered its recommendations to the Town Council; and

WHEREAS, the Town Council for the Town of Sullivan's Island has reviewed the proposed draft by Cooper Consulting, Inc. and the proposed recommendations and revisions of the Planning Commission and now are mindful of adopting the following comprehensive revisions to the Town Zoning Ordinance and are of the opinion that the following comprehensive amendments are in the best interest of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL IN MEETING DULY ASSEMBLED,

that Chapter 21 The Ordinances for the Town of Sullivan's Island be amended to read as follows:

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Sec. 21-65.	Landscaping The minimum requirement is one street tree for every 35 feet of front footage. The computed required number of trees shall be rounded up at 0.5 or above. The Design Review Committee shall recommend the species and size of street trees permissible. These trees shall be on the property within two feet of the front property line or preferably, in the right-of-way (if lawful and permitted).....	40
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- C. The Commission in the discharge of its duties may seek the advice of the consultant retained by the Town as set forth in this Ordinance.

Sec. 21-74. General uses in the RC-2 Area District.

- A. In the RC-2 Area District 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 Sec. 21-71, non-manmade changes of topography, however, the construction of private docks by owners of lots adjoining this area may be permitted subject to the restrictions of Sec. 21-75

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) 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. 21-76. Reserved.

CHAPTER 1

GENERAL PROVISIONS

- Sec. 1-1 How Code designated and cited.
- 1-2 Definitions and rules of construction -- Generally.
- 1-3 Same -- Acts prohibited or punishable.
- 1-4 Provisions considered as continuations of existing ordinances.
- 1-5 Severability of parts of Code.
- 1-6 Catchlines of sections.
- 1-7 General penalty; continuing violations.
- 1-8 Effect of appeal or expiration of ordinance.
- 1-9 Fiscal Year
- 1-10 Town Seal

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections and all future ordinances amendatory thereof shall constitute and be designated "The Code of the Town of Sullivan's Island, South Carolina", and may be so cited. Such ordinances may also be cited as "Sullivan's Island Town Code".

Sec. 1-2. Definitions and rules of construction - Generally.

In the construction of this Code and of all ordinances of the Town, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the Town Council or the context clearly required otherwise:

And, or. The word "and" may be read as "or", and the word "or" as "and", where the sense requires it.

Computation of time. [1] The time within which an act is to be done shall be computed by excluding the first day and including the last day. If the last day be Sunday or a legal holiday, it shall be excluded.

Council or Town Council. The words "Council" or "Town Council" shall mean the Town Council of the Town of Sullivan's Island, South Carolina.

County. The word "County" shall mean the County of Charleston, in the State of South Carolina.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Month. The word "month" shall mean a calendar month.

Number. Words used in the singular include the plural and the plural shall include the singular number.

Oath; swear, sworn. The word "oath" shall include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" or "affirmed".

Official time standard. Whenever certain hours are named, they shall mean standard time or daylight saving time, as may be in current use in the Town.

Owner. The word "owner", applied to a building or land, shall include any licensee, part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.

Person. The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Personal property include every species of property except real property, as herein defined.

Preceding, following. The words "preceding" and "following" shall mean next before and next after, respectively.

Property. The word "property" shall include real and personal property.

Real property and real estate shall include lands, tenements and hereditaments.

Roadway. The word "roadway" shall mean that portion of a street improved, designed or ordinarily used for vehicular travel.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of all roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians.

State. The words "the state" or "this state" shall be constructed to mean the State of South Carolina.

Street. The word "street" shall include avenues, boulevards, highways, roads, alleys, lanes, bridges and approaches thereto and viaducts and all other public thoroughfares in the Town, and shall mean the entire width thereof between opposed abutting property lines; it shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the Town Council.

Tenant or occupant. The words "tenant" or "occupant" applied to a building or land shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

Town. The words "the Town" shall mean the Town of Sullivan's Island in the County of Charleston and State of South Carolina, except as otherwise provided.

Year. The word "year" shall mean a calendar year.

Sec. 1-3. Same -- Acts prohibited or punishable.

In the construction of this Code and of all ordinances of the Town, all acts prohibited or punishable under this Code or under any particular ordinance shall, unless a contrary intent appears, be construed to refer to such acts when committed or occurring within the limits of the Town or in other places over which the Town police have authority or jurisdiction under the laws of the state, even though the Code or the particular ordinance only provides that such acts shall be prohibited and punishable and shall not specifically designate the jurisdiction or scope thereof.

Sec. 1-4. Provisions considered as continuation of existing ordinances.

The provisions appearing in this Code, so far as they are the same as existing ordinances, shall be considered as continuations thereof and not a new enactment.

Sec. 1-5. Severability of parts of Code.

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-6. Catchlines of sections.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be deemed when any of such sections, including catchlines, are amended or reenacted.

Sec. 1-7. General penalty; [2] continuing violations.

Wherever in this Code, or in any ordinance or resolution of the Town, or rule or regulation or order promulgated by any officer or agency of the Town under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provisions of this Code, or any such ordinance, resolution, rule, regulation or order shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than thirty days. Each day any violation of this Code, or any such ordinance resolution, rule, regulation or order shall continue shall constitute, except where otherwise provided, a separate offense. (9-23-97)

Sec. 1-8. Effect of repeal or expiration of code section or ordinance.

The repeal of a code section or an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued, any offense committed,

any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired.

When an ordinance which repealed another ordinance or code section shall itself be repealed, the previous ordinance or code section shall not be revived without express words to that effect.

[1]For similar state laws, see S. C. Code 1976, S15-1-20.

[2]

For state law authorizing municipality to fix fines and penalties for violation of ordinances, see S. C. Code 1976 S5-7-30.

As to trial of violations of Code, etc., see S12-1 of this Code. As to fine of owner of impounded dog, see S3-4 and 3-8. As to reward for information leading to conviction of person for making false fire alarm, see S8-2.

CHAPTER 5

BUILDINGS

Article 1. In General.

- Sec. 5-1. Fire Limits
- 5-2. Prohibition of use of certain structures as living quarters.
- 5-3. Punishment of chapter violations.

Article II. Official Codes.

Division 1. Adoption and construction of technical codes.

- Sec. 5-4. Building, plumbing, and electrical codes adopted.
- 5-5. Construction of certain terms of standard codes.

Division 2. Specific exceptions to codes.

- Sec. 5-6. Electrical installation; materials regulated.
- 5-7. Fencing of pools required.
- 5-8. Non-conforming pools; exception.
- 5-8.1 Regulation of water to air heat pumps.

Article III. Building Permits Generally.

- Sec. 5-9. Required.
- 5-10. Application.
- 5-11. New construction.
- 5-12. Requirements.
- 5-13. Fee for building and electrical permits.
- 5-14. Display of permit.
- 5-15. Business license fee to accompany application.
 - a. Inspection of filling and drainage of building lots as prerequisite to issuance of permit.

Article IV. Sign Permits.

- Sec. 5-17. Sign or signboard defined.
- 5-18. Applicability of article.
- 5-19. Permit required to erect signs; prerequisite to issuance.
- 5-20. Exceptions to sign permit requirement.

Article V. Dwellings and Dwelling Units Unfit for Human Habitation.

Division 1. Generally.

- Sec. 5-21. Authority for enactment; remedies cumulative.
- 5-22. Legislative findings as to unfit dwellings; declaration of intent to repair, close or demolish such buildings.
- 5-23. Definitions.
- 5-24. Creation and appointment of Public Safety and Housing Officer.
- Sec. 5-25. Funds for examination and investigation; examinations, investigations and enforcement; appropriations, grants and donations.
- 5-26. Construction of article generally.
- 5-27. Failure to comply with authorized notice or order.
- 5-28. Injuring, etc. posted notices.
- 5-29. Receipt of rentals after expiration of time limit in notice or order.
- 5-30. Interference with enforcement of article.
- 5-31. Damaging, etc. facilities in dwelling units.
- 5-32. Violation of article.

Division 2. Procedure, powers and duties of Public Safety and Housing Officer.

- Sec. 5-33. Complaint of dwelling unfit for human habitation; notice of hearing thereon; right to answer complaint; rules of evidence.
- 5-34. Order for repair, alteration, improvement or demolition of building upon determination of unfitness for human habitation.
- 5-35. Repair, etc. or vacation and closing of building; posting of placard indicating that building is closed.
- 5-36. Removal or demolition of building when owner fails to comply with order.
- 5-37. Cost of repairs or demolition as lien; sale of materials and distribution of proceeds when dwelling is demolished or removed by public officer; powers of Council as to nuisance.
- 5-38. Service of complaints and orders; posting of copy of complaint of order, copy of complaint or order to be filed with Town Clerk; effect of such filing as lis pendens.
- 5-39. Appeals to Town Council.
- 5-40. Powers and duties of public officer generally.

Division 3. Standards for dwelling units fit for human habitation.

Subdivision 1. Generally.

- Sec. 5-41. Essential conditions.
- 5-42. Sink, toilet, etc., connected to water, sewer, etc.
- 5-43. Panes.

Subdivision 1. Generally. (cont)

- 5-44. Fireplaces, etc. for heating.
- 5-45. Windows.
- 5-46. Electrical wiring system.
- 5-47. Privacy and ventilation for toilet, etc.
- 5-48. Roof, exterior walls, etc. to be weathertight, etc.
- 5-49. Condition of dwelling.
- 5-50. Minimum of living room floor space.
- 5-51. Use of sleeping room for preparation, etc. of food.

Subdivision II. Multiple Dwellings.

- 5-52. Additional essential conditions.
- 5-53. Access of occupied stories to first floor.
- 5-54. Lighting on public hallways, etc.

Subdivision III. Rooming houses.

- Sec. 5-55. Additional essential conditions.
- 5-56. Toilet, etc. connected to water, sewer, etc.
- 5-57. Accessibility of bath and toilet rooms.
- 5-58. Water heating facilities.

Division 4. Applicability.

- Sec. 5-59. Matters covered.
- 5-60. Existing buildings.

Division 5. Penalties.

- Sec. 5-61. Each day of certain violations to constitute separate offense.
- 5-62. Other violations.

Article IV. Flood Control.

Division 1. Factual background and intent.

- Sec. 5-63. Statutory authorization.
- 5-64. Finding of fact.
- 5-65. Statement of purpose.
- 5-66. Objectives.

Division 2. Definitions.

- Sec. 5-67. Definitions.

Division 3. General Provisions.

- Sec. 5-68. Lands to which this article applies.
5-69. Basis for establishing the areas of special flood hazard.
5-70. Establishment of Building Permit.
5-71. Compliance.
5-72. Abrogation and greater restrictions.
5-73. Interpretation.
5-74. Warning and disclaimer of liability.
5-75. Duties of Zoning Administrator and Building Inspector.

Division 4. Administration.

- Sec. 5-76. Designation of Zoning Administrator.
5-77. Permit procedures.
5-78. Duties and responsibilities of the Zoning Administrator.
5-79. Variance procedures.

Division 5. Flood Hazard Districts.

- Sec. 5-80. General Standards.
5-81. Specific standards.
5-82. Standards for Subdivision Proposals.

Division 6. Severability of Parts

- Sec. 5-83. Severability.



Sec. 5-6. Electric installations: materials regulated.

The installation of aluminum wire, conductors or cables on Sullivan's Island is hereby declared unlawful. In all installations of wiring and circuitry hereafter copper wiring and cabling shall be used. (5-15-72)

Sec. 5-7. Fencing of pools required.

All pools, swimming or other, on Sullivan's Island shall henceforth be surrounded by a cyclone or equivalent substantial fence no less than four (4) feet in height, which fence shall be on or within the boundary line of the lot wherein the pool is located. Provided, however, that two or more sides of the pool may be surrounded by the walls of a building or buildings in lieu of a fence if the building is no less than eight (8) feet in height. (7-26-73, S1; 6-24-94)

Sec. 5-8. Non-conforming pools; exception.

Any existing pool which does not conform to this article at the time that this article becomes effective, but which heretofore has been approved by the Town Council or its predecessor, shall be considered lawful. Any other existing pool shall be lawful for ninety (90) days after the enactment of this article and shall thereafter be brought into compliance with this article. (7-26-73, S2)

Sec. 5-8.1. Regulation of Water to Air Heat Pumps.

Owners of water-to-air heat pumps shall be required to return discharged water to the Island's water table by means of a sprinkler system, a tile field, or a series of dry wells. It shall be unlawful for any person to discharge such water into the Town's drainage or sewer systems.

Article III. Building Permits Generally.

Sec. 5-9. Required.

It shall be unlawful to erect, construct, improve, alter or repair any building, sign, or other structure or any part thereof or alter any parcel of land in preparation of such erection, construction, improvement or repair without first having obtained from the Building Inspector a written permit for such erection, construction, improvement, alteration, or repair, pursuant to the provisions of this article. Additionally, no permit shall be issued unless the property meets all requirements contained in Chapter 25-1 through 25-55. It shall likewise be unlawful to maintain any erection, construction, improvement, alteration, or repair of any building, structure, or part thereof or alter any parcel of land in preparation of such erection, construction, improvement or repair without first having obtained the written permit here required. (9-18-07)

Sec. 5-10. Application.

Application for a building permit shall be made in writing to the Building Inspector or his designated representative at the Town Hall on a form or forms approved and furnished by said Inspector. For the convenience of the public and efficiency in administration, the Zoning Administrator may combine said building permit application form with application forms for zoning, use or other town permits, may provide spaces thereon for endorsement or approval by other town officers or officials, and may require two or more copies of said form to be filed by the applicant.

Plans and specifications adequately describing the proposed erection, construction, improvement, alteration or repair shall be submitted with the application which shall set forth the approximate cost, supported by bids or detailed estimates, if requested by the inspector. (4-6-38, S

For property that lies in whole or in part seaward of the SCCC 40-year setback line, plans submitted with the application for a building permit must show the location of the SCCC baseline, the SCCC 40-year setback line, and any other SCCC jurisdictional lines established in the field by SCCC staff. Any proposed erection, construction, improvement, alteration or repair seaward of the SCCC 40-year setback line must be in compliance with SCCC regulations. The applicant must include with the application written SCCC approval for the activity, where such approval is required by SCCC regulations. (1-21-92)

Sec. 5-11. New construction.

When the Town Clerk received an application in writing for a building permit, stating that a new building or structure is contemplated, she shall immediately forward the application to the Building Inspector and Zoning Administrator, together with a plot plan, to be furnished by the applicant, showing the location of the proposed structure on the lot and the floor plan and elevation of said structure, and full compliance with Section 21-28. (8-16-88)

Sec 5-12 Requirements for New Construction and Improvements.

The following are requirements for construction and improvements for which a permit and/or a business license are required. A signed copy of this document must accompany all applications for a business license.

- A. The contractor or owner acting as the contractor will be solely responsible for the enforcement of these guidelines among all workers and subcontractors on the jobsite and areas adjoining the jobsite. (10-19-04)
- B. CONSTRUCTION HOURS: Construction hours apply to all contractors, sub-contractors, landscapers, suppliers and vendors.

8:00 AM TO 6:00 PM Monday through Friday.

10:00 AM TO 4:00 PM Saturday.

No work will be allowed on Sundays and the following holidays:

January 1st - New Year's Day; Memorial Day (last Monday in May); July 4th -

Independence Day; Labor Day (first Monday in September); Thanksgiving Day (fourth Thursday in November); and December 25th - Christmas Day. (4-22-2014)

(Exception) Approval for performing emergency repairs may be granted for working outside of the hours as stated above. A home owner or members of their immediate family may perform maintenance or work on their own property at any time provided all other Sullivan's Island ordinances are being adhered to. (10-19-04)

(Exception) Notwithstanding the above, approval for work outside of the construction hours set forth above may be granted by the Chair of the Public Facilities Committee and the Town Administrator for construction by or for the benefit of Federal, State, County, Town or governmental agencies to promote public safety or the public interest. (9/17/2013)

C. Silt fencing must be installed on all property lines for new construction or substantial improvements. Only one break in the silt fencing will be allowed at the property access point. Access to the property must be limited to one access, maximum 16 feet in width, at the site of the proposed driveway. Adequate protection must be provided for the water meter and sewer cleanouts. Hose bibs must be located a minimum of 10 feet from the water meter. Hose bib must be mounted to a 4" X 4" minimum post, 3 feet in height above grade. (10-19-04)

D. Adequate litter receptacles (dumpsters) must be provided and used. Dumpsters must be delivered and picked up during normal construction hours as stated in 5-12 B. Timely disposal must be made. Jobsites must be policed daily and any loose debris must be placed in a receptacle to prevent debris from blowing onto the jobsite, neighboring properties or public property. (10-19-04)

E. Construction Materials, supplies, dumpsters and equipment must be placed on the building site. The SCDOT Right of way is for parking of vehicles only. Any other use of the right of way or road must be approved in advance by SCDOT and the Town of Sullivan's Island. The approval must be in writing and a copy of the approval must be available for inspection at the construction site. Any damage done to the road or right of ways will be the responsibility of the contractor and must be repaired before a certificate of occupancy or a certificate of completion is issued. (10-19-04)

F. Property corners must be clearly defined at all times during construction. The markers may only be removed after a certificate of occupancy is issued. Markers will extend a minimum of 12 inches above grade at all times during construction. (10-19-04)

G. Fires will not be permitted. (10-19-04)

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- H. Loud and/or offensive language or music is not permitted. (10-19-04)
- I. Firearms are not allowed. (10-19-04)
- J. Litter/construction material disposal at roadside is not permitted. Any construction site must dispose of all construction debris in an approved land fill. Disposal of hazardous materials must be coordinated with SCDHEC. The Town of Sullivan's Island must be notified immediately of the discovery of any hazardous materials. (10-19-04)
- K. Parking for all construction personnel must be on the job site. Adjoining properties may not be used for parking and/or access to the job site. Streets where parking is prohibited may not be used for parking of construction personnel or the storage of construction equipment or materials. (10-19-04)
- L. The contractor is responsible, at the contractor's expense, for the repair/replacement of any property damages, public or private, by construction equipment, personnel, subcontractors, suppliers or machinery- to include roadways, right of ways, water and sewer lines or meters and adjoining properties surrounding the construction site. Construction personnel or equipment must not block any street or impede the flow of traffic on any street at any time. (10-19-04)
- M. Portable toilets are required on all new construction or substantial improvement sites. Portable toilets or adequate toilet facilities will be required on site for all construction for which a permit is required. Portable toilets will be located in an inconspicuous location and away from adjoining homes. (10-19-04)
- N. Contractor is prohibited from enclosing any water meter, sewer tap cleanout or fire hydrant by erecting a fence, wall or other barrier (including vegetation) that would inhibit personnel from performing their duties. Clear access must be provided to water, sewer and fire personnel at all times. (10-19-04)
- O. Paint, cement, chemicals and silt are prohibited from entering any storm water drainage ditch, swale, culvert or inlet. No ditch, swale, culvert or inlet may be filled, blocked or destroyed without obtaining prior permission from SCDOT and the Town of Sullivan's Island. (10-19-04)
- P. Road right of way may be planted with grass only. Plants, shrubs, trees, landscape berms, landscape irrigation, etc. are strictly prohibited in the right of way. (10-19-04)
- Q. On all new construction or substantial improvement a sign stating the address of the site, the contractor of record and contact phone number must be erected so as to be visible from the street. The address must be displayed with 4 inch or larger letters. In addition to the sign board a permit board/box must be available for contractor permits and subcontractor permits. Permits must be protected from weather and must be readily accessible. Total sign square footage shall not exceed 32 sq. ft. for all signs on the property as stated in section 21-44. (10-19-04)

R. Trees: Signs are not allowed to be affixed to any tree in any manner. Trees or limbs over 6 inches in diameter require a permit for removal. Trees over 16 inches in diameter and Palmettos are protected trees and must be treated as such. An adequate barrier must be installed and maintained to protect the canopy and root system. No equipment, materials or vehicles are allowed to be inside the barrier at any time. No fill will be allowed inside the barrier until a certified arborist has been consulted and permission for fill is granted by the Zoning Administrator or his agent. (10-19-04)

Sec. 5-13. Fees for building and electrical permits.

At the time of securing a building or electrical permit, an applicant shall pay the fee for said permit, which has been established by the currently effective resolution of Town Council. (4-6-38, 12-15-75, 12-5-77)

Sec. 5-14. Display of permit.

A building permit, when issued shall be kept at the building or place where the erection, construction, improvement, alteration or repair is being done and, on demand, shall be produced by the person in charge of the work for inspection by any police officer or any Town Council member or officer. It shall be unlawful to continue work without producing a permit for inspection, when demanded. (4-6-38)

Sec. 5-15. Business license fee to accompany application.

Where the application is for the use of existing improved or unimproved property for commercial purposes the application shall be accompanied by the appropriate business license fee otherwise provided by Town ordinance and other reasonable information as the Town Council may require in the individual case. (12-18-61, S3)

Sec. 5-16. Inspection of filling and drainage of building lots as prerequisite to issuance of permit.

The Building Inspector shall not issue a building permit until he shall have inspected the lot upon which said building is proposed to be erected and has determined that said lot is filled above the level of the pavement and graded so as to be effectively drained. (9-20-65, S2)

- A. No fill will be allowed on any lot on Sullivan's Island without first having obtained a permit approved by the Building Official.
- B. The Building Official shall not issue a building permit until he shall have inspected the lot upon which said building is to be erected or proposed fill is to be placed.

C. Prior to inspecting the lot:

- (i) Existing topographic survey must be submitted to the Building official at time of permit application.
- (ii) Proposed topographic site plan must be submitted to the Building official at time of permit application. An as built will be required for new construction.
- (iii) If a lot is below street grade and does not drain properly a drainage/fill plan must be submitted for approval by the building official. The building official may at his discretion require the plan be submitted by a licensed civil engineer to ensure the lot is effectively drained.

D. Berms, Building pads or Fill increased more than one foot (1'0") above existing grade are prohibited. Existing defined as the date of original application for permit or date of existing topographic survey on file in the office of the Building Official.

E. Fill on any lot may not be retained by retaining walls.

F. Silt fencing is required to be placed on the property line of the lot being filled and must be maintained until fill has been stabilized to prevent fill from migrating to neighboring properties. Fill migration to other properties and/or SCDOT right of way is prohibited. (10/21/03)

Article IV. Sign Permits.

Sec. 5-17. Sign or signboard defined.

Whenever used and referred to in this article, "sign" or "signboard" shall mean any writing, letter, word, numeral, picture, illustration, emblem, symbol, trademark, flag, banner, pennant or other figure or similar character which:

- A. Is visible to public view from a public street or way.
- B. Is used to announce, direct attention or advertise.

(12-16-63, S1)

Sec. 5-18. Applicability of article.

No sign or signboard shall be constructed, erected, painted, altered, rebuilt, enlarged,

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Town of Sullivan's Island,)
)
Plaintiff/Appellant,)
)
vs.)
)
Jason Thompkins,)
)
Defendant/Respondent.)
_____)

IN THE COURT OF COMMON PLEAS

Case No. 2016-CP-10- 5947

APPEAL FROM MUNICIPAL
COURT DECISION
S. C. Code Ann. 14-25-95

FILED

NOV 04 2016

TO: MARY D. SHAHID, ESQ., ATTORNEY FOR JASON THOMPKINS, JULIE J. ARMSTRONG CLERK, C.P. & G.S.

YOU WILL PLEASE TAKE NOTICE THAT THE UNDERSIGNED, ON BEHALF OF PLAINTIFF/APPELLANT TOWN OF SULLIVAN'S ISLAND HEREBY APPEALS THE DECISION OF THE MUNICIPAL JUDGE OF THE TOWN OF SULLIVAN'S ISLAND TICKET # 5714.

The judgment of the Municipal Judge of the Town of Sullivan's Island is embodied in a letter sent to Mary D. Shahid, Esquire, dated October 13, 2016, a copy of which the undersigned received on October 25, 2016. The grounds for this Appeal are set forth as follows:

Background

Defendant/Respondent Jason Thompkins is the Managing Member of C & B Beach House, LLC which owns the property at 1102 Osceola Avenue, Sullivan's Island, South Carolina. On June 30, 2014, Michael J. Murray, owner of American Dock and Marine Construction sought and obtained an Accessory Structures Permit from the Town of Sullivan's Island incident to the construction of a dock at 1102 Osceola Avenue, Sullivan's Island, South Carolina on behalf of C & B Beach House, LLC. The building permit application approved by the building department for Town of Sullivan's Island expressly

stated that the dock “must not exceed adjacent docks”. Further, the Certificate of Zoning Compliance issued by the building department for the Town of Sullivan’s Island expressly stated “move pier head, floating and boat lift landward to not exceed adjacent docks”. Finally, the drawing of the proposed dock, which was included in the application for a dock permit submitted to the building department for the Town of Sullivan’s Island, contained a notation from the building official that “moor dock to not exceed adjacent docks”. The Accessory Structures Permit was presented to Mr. Thompkins’ dock builder, Michael J. Murray, as a package, which package was received in evidence at the trial in this case as Town’s Exhibit 1 and is attached hereto as Exhibit 1. Importantly, no Appeal was taken by Mr. Thompkins, as Managing Member of C & B Beach House, LLC, to the Town’s Board of Zoning Appeals as to the requirements restricting the length of the dock. At the trial of this case, Mr. Thompkins acknowledged that the building permit required that the dock not exceed adjacent docks, that it was his responsibility as Managing Member of the LLC to ensure that the dock did not exceed adjacent docks, that the dock exceeded the adjoining docks by 9.2 feet as reflected in the As Built Survey, dated July 19, 2016, and that the extension of the dock 9.2 feet beyond adjacent docks was a violation of the building permit. A copy of the As Built Survey was received in evidence at the trial of the case as Defendant’s Exhibit “J” and is attached hereto as Exhibit 2. Mr. Thompkins further acknowledged the violation of the building permit issued by the Town of Sullivan’s Island in a sworn letter to the Zoning Administrator, dated June 30, 2016, which was admitted in evidence during the trial of this case as Town’s Exhibit 4 and which is attached hereto as Exhibit 3.

Grounds for Appeal

It is undisputed that Sections 5-10 and 21-75 of the Zoning Ordinances for the Town of Sullivan’s Island require a Building Permit prior to the construction of a dock on the property at 1102 Osceola Avenue, Sullivan’s Island, South Carolina. The Building Permit expressly required that the

dock to be constructed not exceed adjacent docks. The As Built Survey confirms that the dock constructed at 1102 Osceola Avenue, Sullivan's Island, South Carolina exceeds the adjoining dock by 9.2 feet. Mr. Thompson acknowledged at trial that the dock violated the Building Permit issued by the Town of Sullivan's Island. Accordingly, the Judgment of the Trial Judge to acquit Mr. Thompson is an error of law and should be reversed by this Court and remanded to Municipal Court for the imposition of appropriate punishment.

Conclusion

For the reasons set forth above, the Town of Sullivan's Island request this Court to reverse the Judgment of the Trial Judge and remand the case to Municipal Court for the imposition of appropriate punishment.

Respectfully Submitted,

CISA & DODDS, LLP

BY: _____

John J. Dodds, III

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Mt. Pleasant, SC 29464

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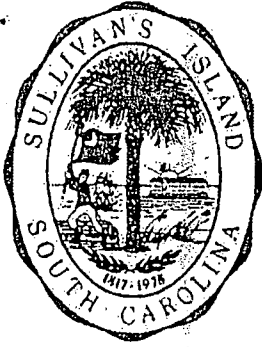
SC Bar No.: 1707

john@cisadodds.com

**ATTORNEY FOR TOWN OF
SULLIVAN'S ISLAND**

November 4, 2016.

Mount Pleasant, South Carolina



Town of Sullivan's Island

Sullivan's Island, South Carolina

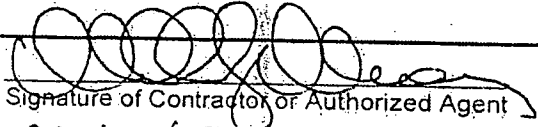
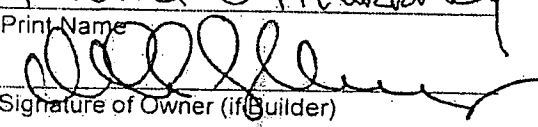
Accessory Structures Permit

SCANNED
received
6-19-14

Sullivan's Island Building Department
2050-B Middle Street

Phone: (843) 883-3198
Sullivan's Island South Carolina

Fax: (843) 883-3009
<http://www.sullivanisland-sc.com>

Address of Work Site: 1102 Osceola Ave		TMS #: 5230700070		Zoning:	
Owner of Property: C & B Beach House LLC,		Mailing Address: 29 Retreat Ln			
Phone #: _____ Fax #: _____		Columbia SC 29209			
Contractor: American Dock & Marine construction, Inc#12475		Mailing Address: 1533d-5 Folly Rd			
Phone #: 843.795.2999 Fax #: _____		Charleston SC 29412			
City Business License #: _____		State License #: _____		Expiration Date: _____	
Architect/Designer: _____		Mailing Address: _____			
Phone #: _____ Fax #: _____					
Engineer: _____		Mailing Address: _____			
Phone #: _____ Fax #: _____					
Type of Work: Other		Explain Scope of Work: DOCK PERMIT			
 Signature of Contractor or Authorized Agent		Valuation of Work: \$ 123300.00			
Michael S. Murphree Print Name		Valuation on Building Permits will be calculated by Building Department. Separate permits may be required. Subcontractor information must be provided.			
 Signature of Owner (if Builder)		NOTE: ALL SEWER & WATER FEES MUST BE PAID PRIOR TO THE ISSUANCE OF PERMITS ON NEW CONTRUCTION.			
Total Amount Paid:					
Total Sq. Ft.	Total Impervious	Total Heated Sq. Ft.	# Bathrooms	HVAC	
Lot Sq. Ft.	Const. Type	Occupancy	Elec. Amp	Fire Sprinklers	
# Stories	# Dwelling Unit(s)	# Bedrooms	Flood Elevation	# of Seats	
Date Issued: 6/30/14		PERMIT NUMBER: 14-0135			
Issued By: kat		Permit Amount \$: 1372.40			

86

44552
EXHIBIT
NO. 1
PENGAD-Bayonne



Town of Sullivan's Island

Sullivan's Island, South Carolina

BUILDING PERMIT APPLICATION

Sullivan's Island Building Department
2050-B Middle Street

Phone: (843) 883-3198
Sullivan's Island South Carolina

FAX: (843) 883-3009
<http://www.sullivanisland-sc.com/>

Address of Work Site: 1102 Osceola Ave. TMS# 523-07-00-070 Zoning: _____

Owner of Property: _____ Mailing Address: _____

Phone #: _____ Fax #: _____

Contractor: American Dock Marine Mailing Address: 1533 D.S. Folly Road

Phone #: 795-2999 Fax #: 762-5838

City Business License #: 1205 State License #: 12475 Expiration Date: 10/31/2014

Architect/Designer: _____ Mailing Address: _____

Phone #: _____ Fax #: _____

Engineer: _____ Mailing Address: _____

Phone #: _____ Fax #: _____

Type of Work: New ☒ Addition ☐ Alteration ☐ Repair ☐ Move ☐ Remove ☐ Other ☐
Commercial ☒ Residential ☐ Other ☐

Explain Scope of Work: Construction of dock

Signature of Contractor or Authorized Agent

Michael J. Murray
Print Name

[Signature]
Signature of Owner (If Building)

[Signature]
Print Name

VALUATION OF WORK: \$123,300.00

Valuation on Building Permits will be calculated by Building Department. Separate permits may be required. Subcontractor information must be provided.

NOTE: ALL SEWER & WATER FEES MUST BE PAID PRIOR TO THE ISSUANCE OF PERMITS ON NEW CONSTRUCTION.

APPROVED
as noted

Approvals Building T.M. Zoning 6-30-14

Building Permit \$ _____
Electrical Permit _____
Plumbing Permit _____
Mechanical Permit _____
Gas Permit _____
Sign Permit _____
Plan Review Fee _____
Fire Sprinklers _____
Other _____

Total Amount Due \$ _____

Total Sq. Ft.	Total Impervious	Total Heated Sq. Ft.
Lot Sq. Ft.	Const. Type	Occupancy
# Stories	# Dwelling Unit	# Bedrooms
# Bathrooms	Elec. Amp	HVAC
Flood Elevation	Fire Sprinklers	# of Seats

Date Issued: _____

Issued By: _____

Permit # _____ Permit Amt \$ _____

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Must not exceed adjacent docks & 10' from extended property lines



Town of Sullivan's Island

Sullivan's Island, South Carolina

CERTIFICATE OF ZONING COMPLIANCE

JOB ADDRESS: 1102 Osceola Avenue (American Dock and Marine Construction)	DATE OF APPLICATION: 6-21-2013
TMS #: 523-07-00-070	DATE PERMIT APPROVED: 6-26-2013
NAME OF APPLICANT / AGENT: Michael Murray	PHONE: 843-795-2999
MAILING ADDRESS: 1533 D Folly Road, Charleston SC 29209	FAX:
PRIMARY CONTACT PERSON:	PAGER:
MAILING ADDRESS:	PHONE:
	FAX:
	PAGER:

TYPE OF PERMIT:

- Site Plan Approval
- Landscape Plan Approval
- Building Addition
- Building Alteration / Renovation
- Change in Occupancy Class
- Signage
- Tree Removal
- ☒ Dock and Pier Head Construction

WORK DESCRIPTION: Applicants request approval to construct a new pier head with roof, floating dock and boat lift.

Move dock (Boat Lift) to 10' from extended property line.
Move pier head, floating & Boat Lift Landward to not exceed adjacent docks.

SPECIAL CONDITIONS OF APPROVAL: Application approved provided shown pier head with roof, floating dock, and boatlift meet the conditions of Zoning Ordinance Section 21-75 and that all structures meet a 10' foot setback from the extended lot lines.

NOTICE

In accordance with the Sullivan's Island Zoning Ordinance Article XIX, § 21-186, this document shall become the CERTIFICATE OF ZONING COMPLIANCE when approved by the Building Department. The issuance of this permit shall be construed to be a license to proceed with the application for a building permit or with the approved work if a building permit is not required. The issuance of this permit shall not be construed as authority to violate, alter, or set aside any provisions of the Sullivan's Island Zoning Ordinance, or any other codes, ordinances, or regulations of the Town of Sullivan's Island. The issuance of this permit shall not prevent the Building Department from hereafter requiring a correction of error in plans where such error violates the Zoning Ordinance or other codes, ordinances, or regulations of the Town of Sullivan's Island. No alterations and/or renovations to the existing conditions of the premises shall be performed unless specifically illustrated or noted on the approved plans or herein this permit. Deviations from the approved plans or conditions of approval stated herein may be made only after written approval is obtained from the Building Department.

I hereby certify that I have read and understand the requirements of this permit, the conditions of approval of this permit, the conditions noted on the approved plans and that there are no restrictive covenants on the tract or parcel of land for which this permit is being requested (per SC Code §6-29-1145). I further understand that any deviation from the approved plans and conditions thereof shall constitute a violation of the Town of Sullivan's Island Zoning Ordinance.

NAME OF APPLICANT / AGENT

DATE

NAME OF CONTRACTOR

DATE

SPECIAL APPROVALS

REQUIRED

APPROVED

Design Review Board

N/A

Board of Zoning Appeals

N/A

Planning Commission

N/A

Tree Board

N/A

Water and Sewer

N/A

Police & Fire

N/A

DHEC-OCRM

N/A

ZONING ADMINISTRATOR

[Signature] 6/30/14

CHIEF BUILDING INSPECTOR

[Signature] 6/30/14
SEE NOTES

88

**SCDHEC- Office of Ocean and
Coastal Resource Management**

CONSTRUCTION AUTHORIZATION

Permittee/

Property Owner: C & B BEACH HOUSE, LLC

Expiration

Date:

MAY 15, 2019

Address of Permittee/ 29 RETREAT LANE
Property Owner: COLUMBIA, SC 29209

Permit
Number:

OCRM-14-094-B

Contractor's Name: AMERICAN DOCK AND MARINE, INC.
(if none provided, then property
owner name)

Date

Issued: JUNE 12, 2014

Location: 1102 OSCEOLA AVENUE

Contractor's License #: G12475

Waterway: THE COVE

City: SULLIVANS ISLAND

County: CHARLESTON

Authorized Work: TO CONSTRUCT A 4' X 584'
WALKWAY, WITH HANDRAILS, LEADING TO A COVERED 15'
X 15' PIERHEAD. EBBSIDE OF THE PIERHEAD, A 3' X 20'
RAMP WILL ACCESS AN 8' X 20' FLOATING DOCK.
FLOODSIDE OF THE PIERHEAD, A 12.5' X 12.5', FOUR-PILE
BOAT LIFT WILL BE INSTALLED, AS PERMITTED.

Steven Brooks
Project Manager

JUNE 12, 2014

Date

> This Notice Must Be Conspicuously Displayed at the Work Site <

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Date: 6/1/14

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

CRITICAL AREA PERMIT & COASTAL ZONE CONSISTENCY CERTIFICATION

Permittee(s): C & B Beach House, LLC

Permit Number(s): OCRM-14-094-B

Date of Issuance: May 15, 2014

Expiration Date: May 15, 2019

Location: On and adjacent to The Cove at 1102 Osceola Avenue, Sullivans Island,
Charleston County, South Carolina. TMS: 523-07-00-070.

SEE SPECIAL
CONDITIONS(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 (Supp. 2005). Please carefully read the project description and any special conditions that may 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. If there are no special conditions, then the work is authorized as described in the project description and as modified by the general conditions. 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 project if work commences during the life of the permit. This applies to permittee, future property owners, or permit assignees.

DESCRIPTION OF THE PROJECT, AS AUTHORIZED

The permitted work will consist of constructing a private recreational dock. Specifically, the permittee is authorized to construct a 4' x 584' walkway, with handrails, leading to a covered 15' x 15' pierhead. Ebbside of the pierhead, a 3' x 20' ramp will access an 8' x 20' floating dock. Floodside of the pierhead, a 12.5' x 12.5', four-pile boatlift is proposed. The work as described is for private, recreational use.

SPECIAL CONDITIONS

1. Provided the proposed walkway and fixed pierhead are constructed a minimum of 3' above mean high water.
2. Provided the handrails are constructed to what is minimally required for safety as outlined in the Southern Building Code.
3. Provided that any disturbed critical area adjacent to the construction site be restored to original contours and conditions upon project completion.
4. Once the project is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.
5. Provided that an as-built survey of the dock must be submitted to the Department within 90 days of the expiration date of the final construction placard. The survey must be performed by a registered land surveyor, must show all components of the dock, and must list the starting and ending coordinates of the dock walkway in the SC State Plane Coordinate System, which can be obtained by survey-grade Global Positioning System equipment.

7690 provided
to Sullivan's
d GRR 1.1.1 HAM

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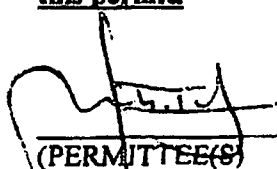
6. Provided that in the event that archaeological or paleontological remains are found during the course of work, the applicant should notify the South Carolina Institute of Archaeology and Anthropology (Mr. James Spirek at 803-777-8170) pursuant to South Carolina Underwater Antiquities Act of 1991, (Article 5 Chapter 7, Title 54, Code of Laws of South Carolina, 1976). Archaeological remains consist of any materials made or altered by man, which remain from past historic or prehistoric times (ie, older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures, or non-recent vessel remains. Paleontological remains consist of old animal remains, original or fossilized, such as teeth, tusks, bone, or entire skeletons.

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: OCRM-14-094-B

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

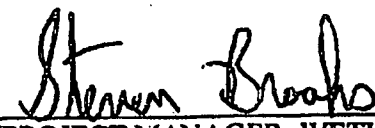


(PERMITTEE(S))
C & B Beach House, LLC

5/21/14

(DATE)

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



(PROJECT MANAGER, WETLAND SECTION)
Steven Brooks
or his Designee Other Authorized State Official

5/15/14

(DATE)

GENERAL CONDITIONS:

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

1. That 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 OCRM 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. That 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. That all authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. That 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. That 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. That the permittee shall permit OCRM or its authorized agents or representatives to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. That any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by OCRM.
8. That this permit may not be transferred to a third party without prior written notice to OCRM, 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. That 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. That 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. That 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. That the authorization for activities or structures herein constitutes a revocable license. OCRM may require the permittee to modify activities or remove structures authorized herein if it is determined by OCRM 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 OCRM intends to revoke the permit, Permittee agrees to immediately stop work pending resolution of the revocation.
13. That OCRM 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 OCRM'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, OCRM shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to OCRM. (South Carolina Code Section 1-23-370 shall govern the procedure for revocation, suspension or modification herein described).
14. That any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against OCRM or the State of South Carolina or any employee, agent, or representative of OCRM or the State of South Carolina.
15. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be 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. That 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 OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.

60

ADJACENT OWNERS
 1. LOT 66 DEAN & HARRISON
 2. LOT 64 LYNN HARRISON
 3. LOT 68 VERNON GORDON &
 4. LOT 66 BEN HARRISON
 SHEET 3 OF 8

PLANNED DRAINAGE ACCESS TO
 INTRACONCRETE WATERWAY

TIDDEWATER
 ENVIRONMENTAL SERVICES INC.
 28 ROBERT STREET, SUITE 202
 CHARLESTON, SC 29403
 PHONE: (843) 782-3750 FAX: (843) 782-3750
 WWW.TIDDEWATERENVIRONMENTAL.COM

APPLICANT: MR. JASON THOMPSON
C&S BEACH HOUSE, LLC
 1102 OSCOLA AVENUE
 SULLYVILLE ISLAND, SC 29962

DATE: MARCH 2014
P/W 0/1
AV. OSCOLA AVENUE
COUNTY OF CHARLESTON
ADJ. SULLYVILLE ISLAND, SC

PROPOSED ACTIVITY: PRIVATE DOCK CONSTRUCTION

DOCK CROSS SECTION FRONT VIEW

DOCK CROSS SECTION
 SCALE 1"=10'

EXTENDED PROPERTY LINE

ADJACENT DOCK

BEACH LOW WATER (0.00')

BEACH HIGH WATER (1.00')

FLATIRON DOCK

2" X 30" CHANNEL

10' X 18' FIXED FEN W/ GABLE ROOF

12' X 12' LT

16' WIDE
15' ABOVE
WATER

FLOOD

SEA

ST

6
12.5
10'

12' X 12' LT

10' X 18' FIXED FEN W/ GABLE ROOF

2" X 30" CHANNEL

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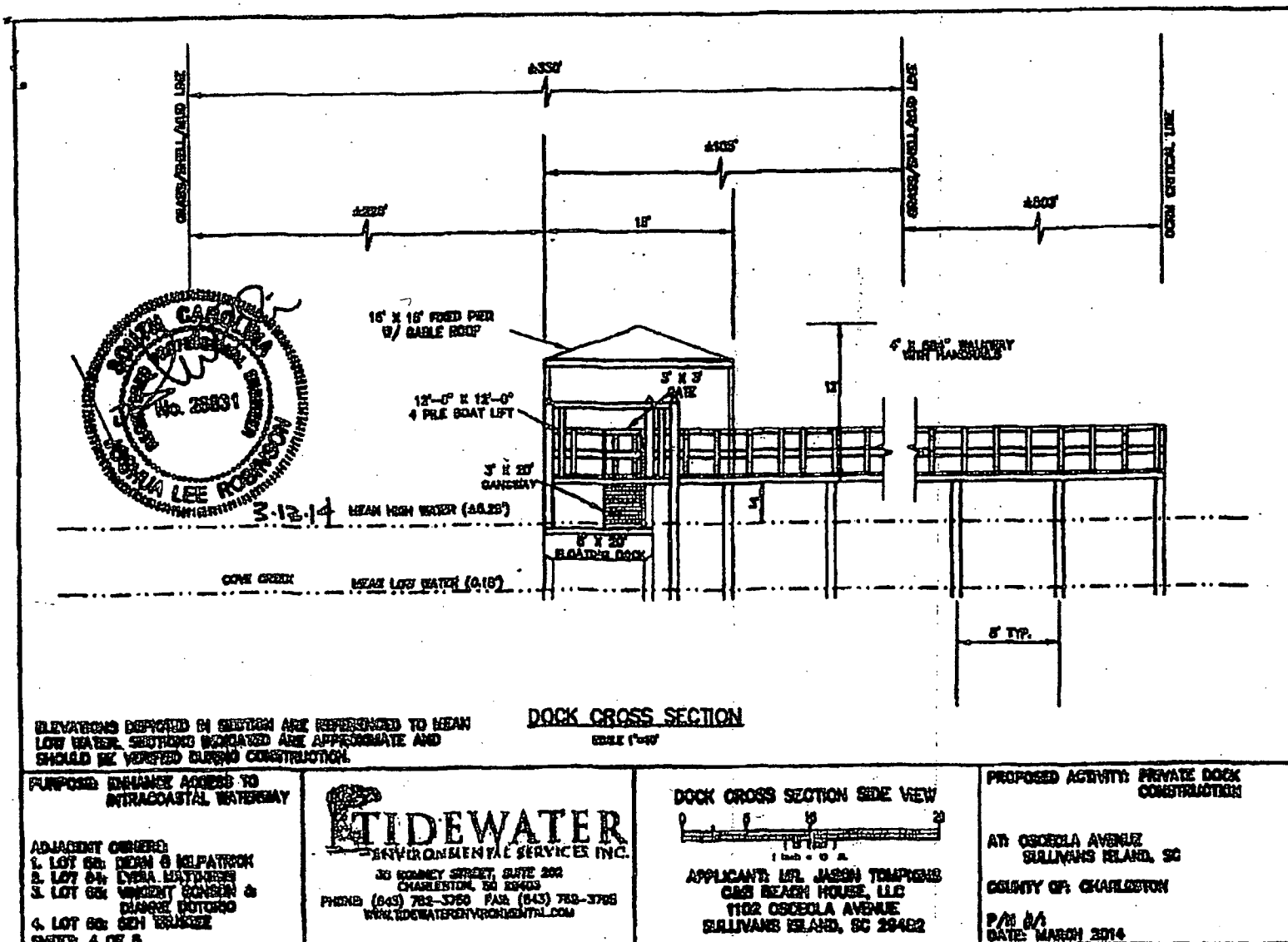
BEACH LOW WATER (0.00')

BEACH HIGH WATER (1.00')

ADJACENT DOCK

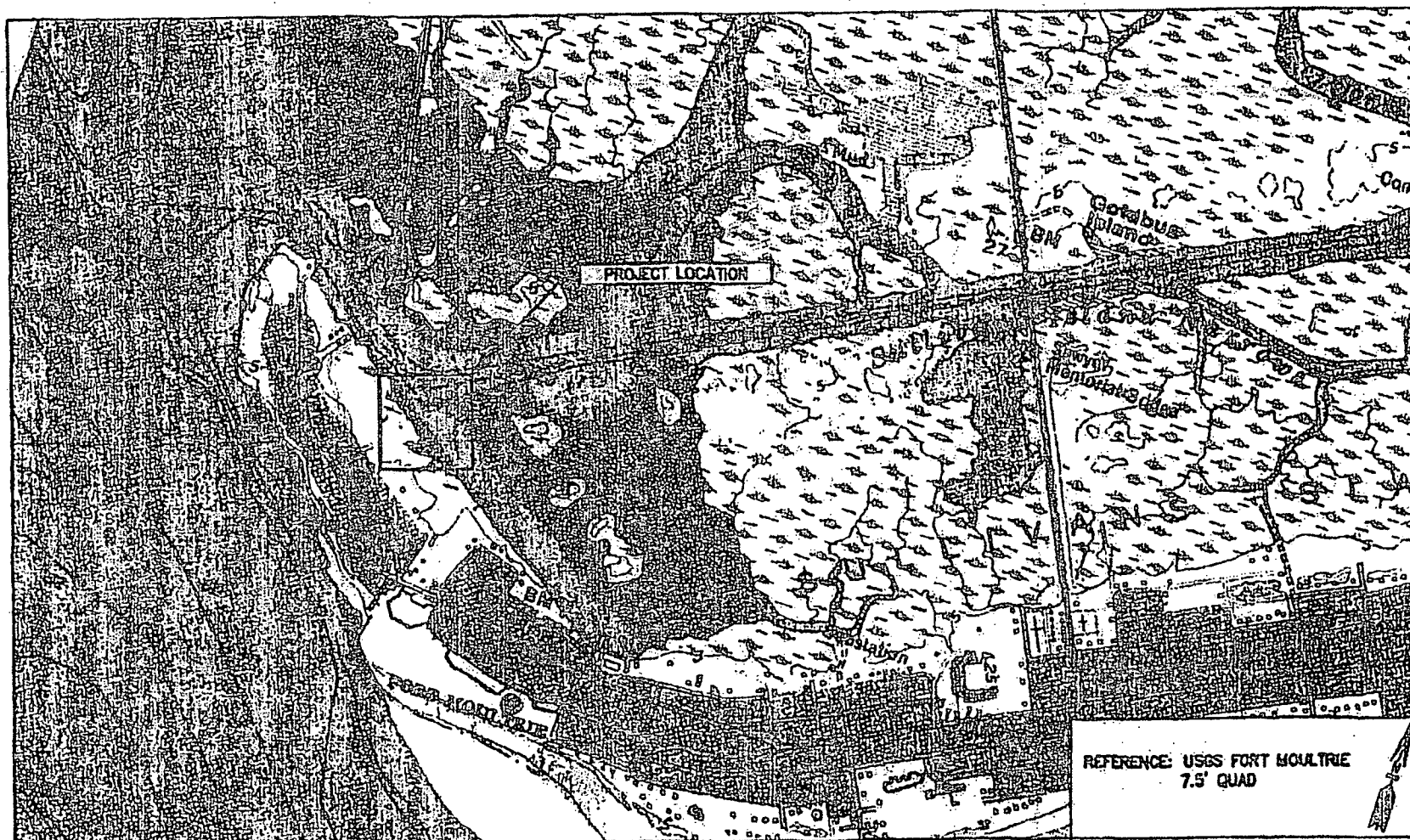
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OCRM-14-094-B

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REFERENCE: USGS FORT MOULTRIE
7.5' QUAD



PURPOSE: ENTRANCE ACCESS TO
INTRACOASTAL WATERWAY

ADJACENT OWNERS:
1. LOT 58: DEAN O KILPATRICK
2. LOT 64: LYDIA MATTHEWS
3. LOT 65: VINCENT SONSON &
DIANNE DOTORO
4. LOT 68: SEA TRUSTEE
SHEET: 5 OF 5

TIDEWATER
ENVIRONMENTAL SERVICES INC.
38 ROXNEY STREET, SUITE 202
CHARLESTON, SC 29403
PHONE: (843) 762-3750 FAX: (843) 782-3795
WWW.TIDEWATERENVIRONMENTAL.COM

LOCATION MAP

NOT TO SCALE

APPLICANT: MR. JASON TOMPKINS
C&B BEACH HOUSE, LLC
1102 OSCEOLA AVENUE
SULLIVANS ISLAND, SC 29482

PROPOSED ACTIVITY: PRIVATE DOCK
CONSTRUCTION

AT: OSCEOLA AVENUE
SULLIVANS ISLAND, SC

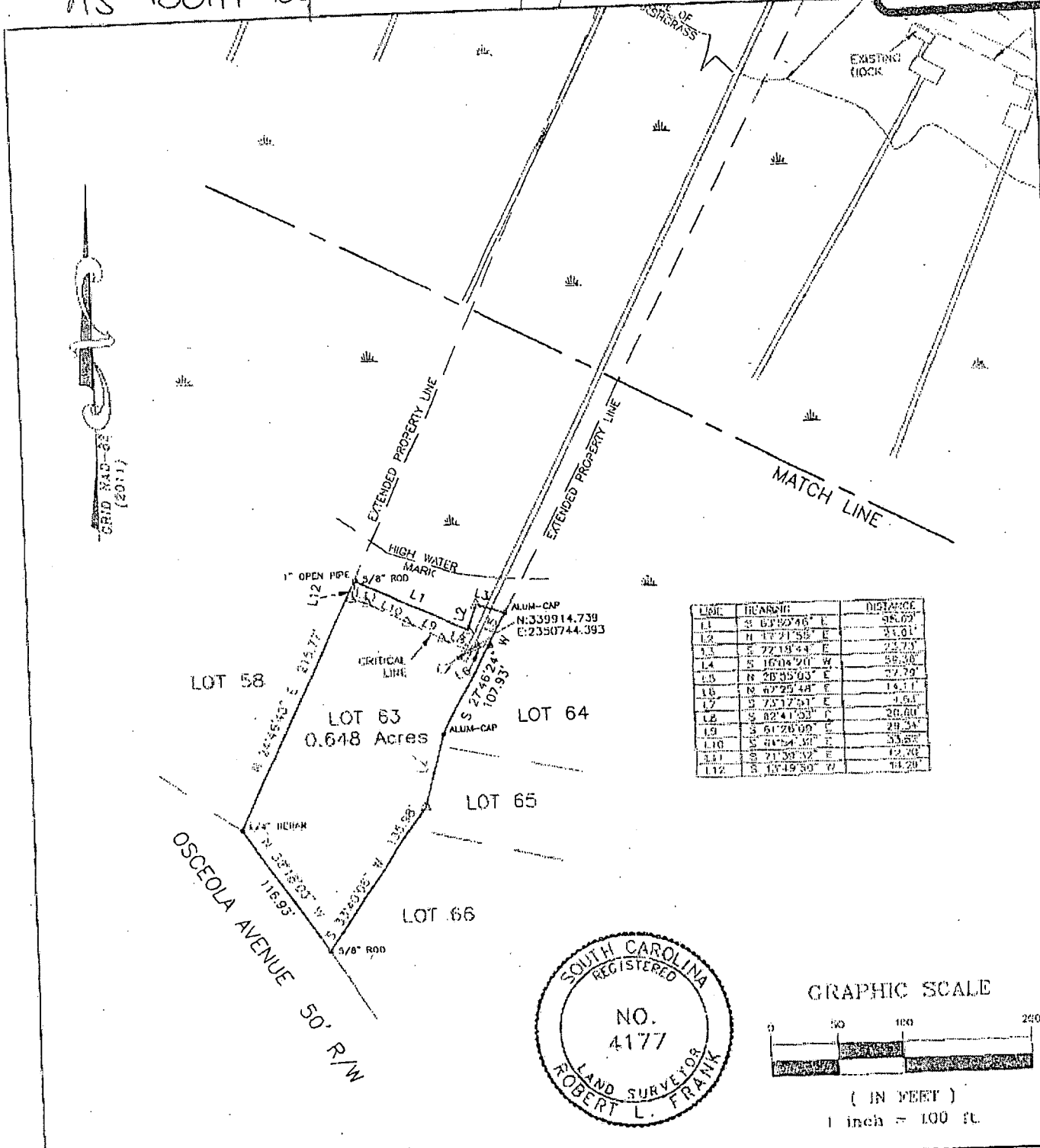
COUNTY OF: CHARLESTON

P/N #/
DATE: MARCH 2014

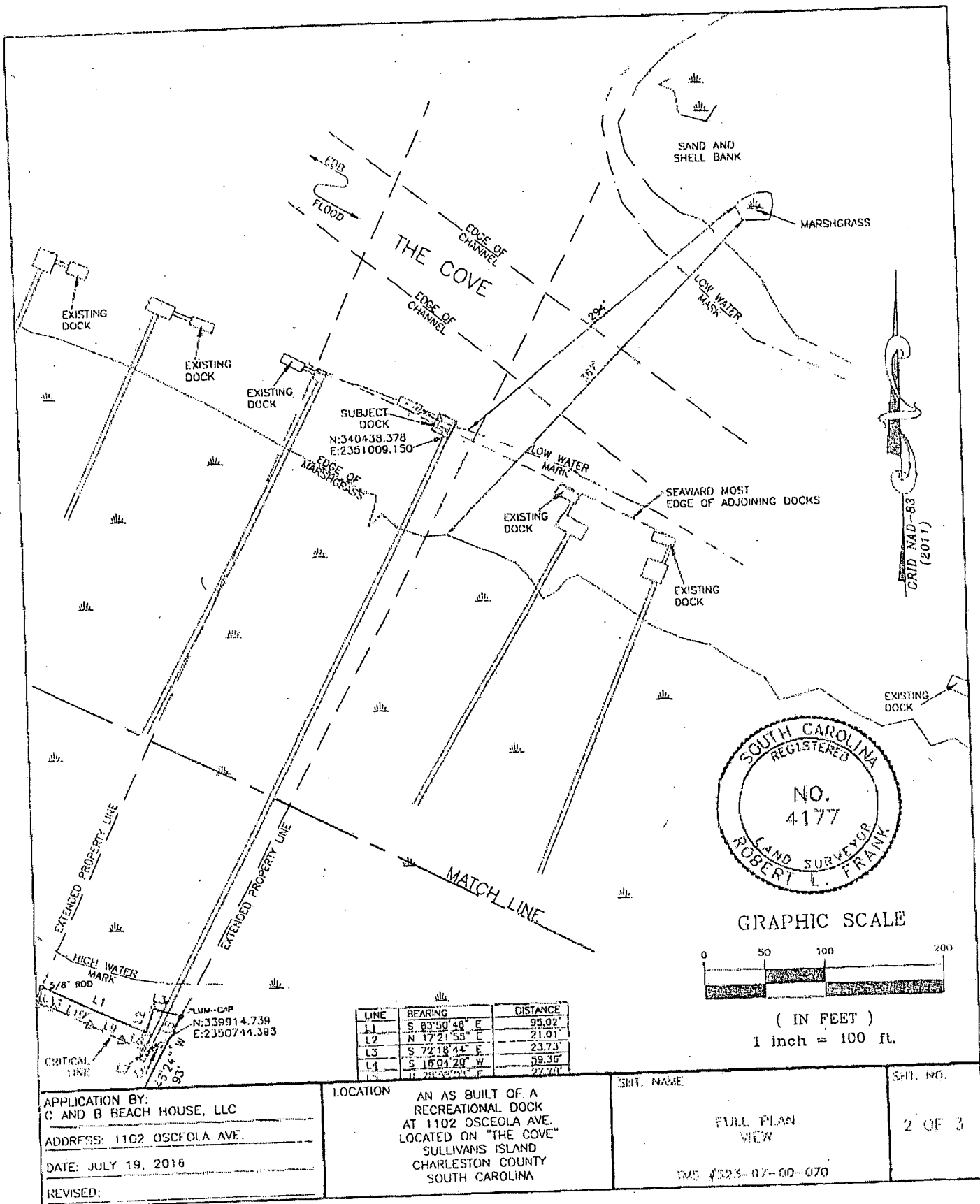
OCRM-H-094-B

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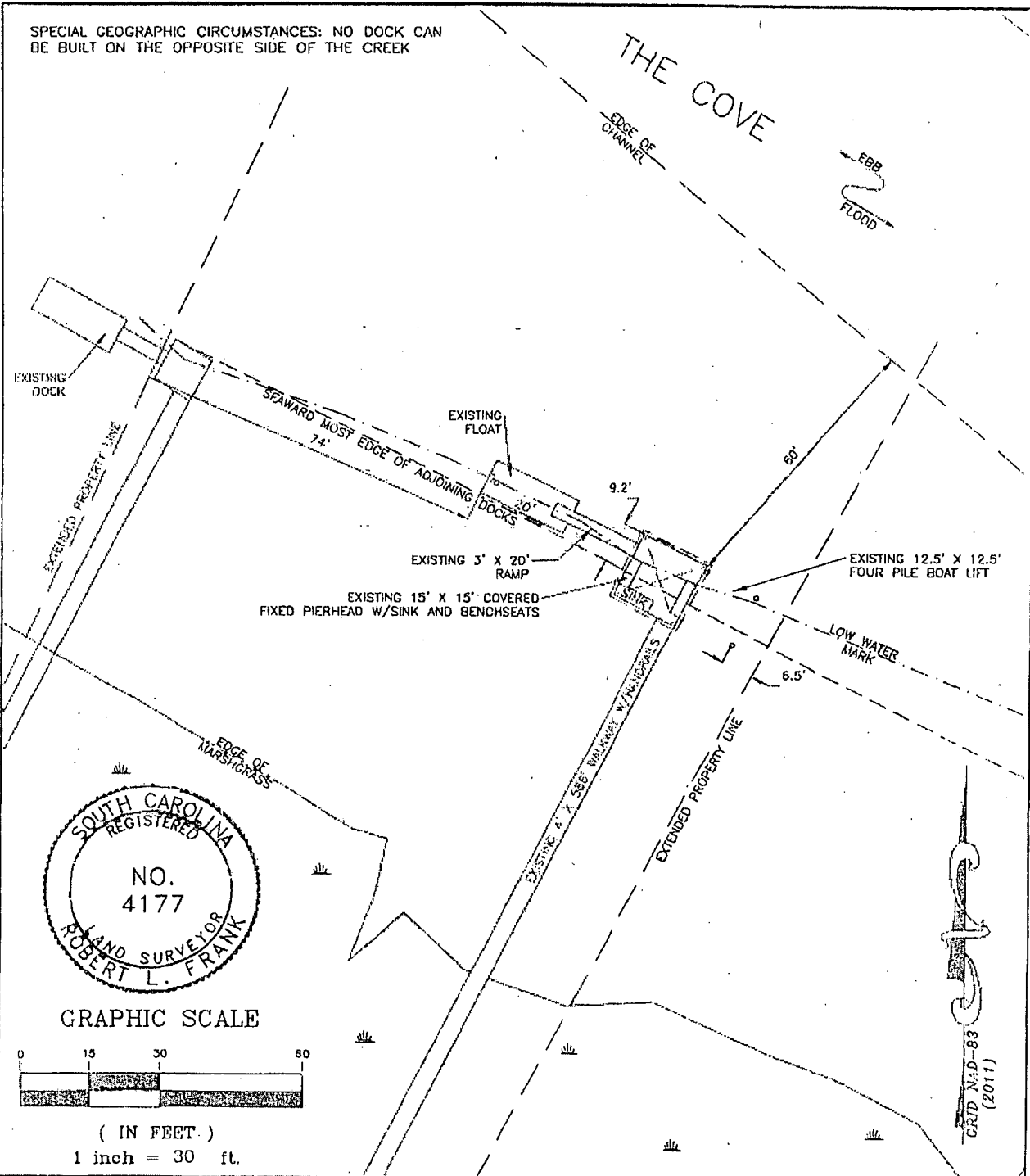
As Built by Frank 7/19/16



APPLICATION BY: C AND B BEACH HOUSE, LLC	LOCATION AN AS BUILT OF A RECREATIONAL DOCK AT 1102 OSCEOLA AVE. LOCATED ON "THE COVE" SULLIVANS ISLAND CHARLESTON COUNTY SOUTH CAROLINA	SHT. NAME FULL PLAN VIEW	SHT. NO. 1 OF 3
ADDRESS: 1102 OSCEOLA AVE.			
DATE: JULY 19, 2016			
REVISED:		TMS #523-07-00-070	

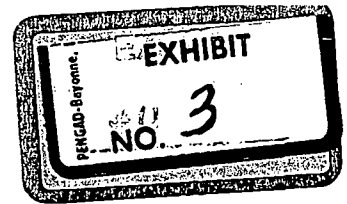


SPECIAL GEOGRAPHIC CIRCUMSTANCES: NO DOCK CAN
BE BUILT ON THE OPPOSITE SIDE OF THE CREEK



APPLICATION BY: C AND B BEACH HOUSE, LLC	LOCATION AN AS BUILT OF A RECREATIONAL DOCK AT 1102 OSCEOLA AVE. LOCATED ON "THE COVE" SULLIVANS ISLAND CHARLESTON COUNTY SOUTH CAROLINA	SHT. NAME PLAN VIEW	SHT. NO. 3 OF 3
ADDRESS: 1102 OSCEOLA AVE.			
DATE: JULY 19, 2016			
REVISED:		TMS #523-07-00-070	

June 30, 2016



Joe Henderson
Zoning Administrator
Town of Sullivan's Island
2050-B Middle Street
Sullivan's Island, SC 29482

Dear Mr. Henderson,

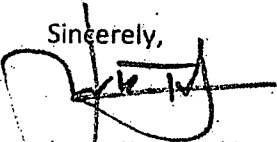
It came to our attention on Monday, June 27, 2016, that, although American Dock and Marine ("ADM") constructed the dock at 1102 Osceola Avenue in accordance with the permit issued by OCRM, the completed dock likely does not comply with additional requirements imposed by applicable Sullivan's Island rules, regulations, and codes. Note that, as the property owner, the town of Sullivan's Island never provided me its special conditions, which were hand-marked on the OCRM permit drawing. It is my understanding that the special conditions were provided directly to ADM as part of the permit package.

The dock was completed in late 2014 and ADM provided as-built drawings to OCRM and it is my understanding that OCRM contemporaneously approved the dock as built. It has come to our attention that ADM failed to provide as-built drawings to Sullivan's Island – one of the hand-marked conditions in the Sullivan's Island permit package. For the public record, it is frustrating that this issue is being brought to our attention more than 18 months after the dock was completed and less than four days before the completion of our house.

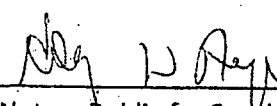
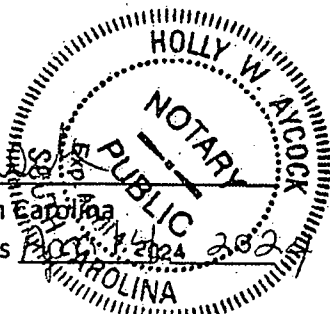
Mike Murray, owner of ADM, has taken full responsibility and has committed to making all necessary changes to reconfigure the dock to Sullivan's Island's satisfaction within 90 days, subject to reasonable extension at the discretion of Sullivan's Island if progress is being made in earnest.

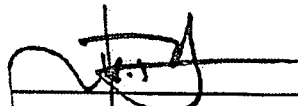
As owner of the property, we understand that the ultimate responsibility to comply with Sullivan's Island zoning rests with us and you have my commitment to ensure that ADM fulfills their commitment.

Sincerely,


Jason K. Tompkins
1102 Osceola Avenue
Sullivan's Island, SC 29482

Sworn to before me this
30 day of JUNE, 2016


Notary Public for South Carolina
My Commission expires Aug 1, 2024



Signature of Affiant
101

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
TOWN OF SULLIVAN'S ISLAND,)
Plaintiff/Respondent)
VS.)
JASON THOMPCKINS,)
Defendant/Appellant.)

IN THE MUNICIPAL COURT FOR
THE TOWN OF SULLIVAN'S ISLAND

CASE NO: 2016-CP-10-5947

RETURN TO NOTICE OF INTENT
TO APPEAL

FILED
2017 FEB -8 PM 2:33
JULIE J. ARMSTRONG
CLERK OF COURT

Responding to the Defendant/Appellant's Notice of Intent to Appeal, the undersigned would respectfully show as follows:

1) THAT the Defendant, Jason Thompkins, appeared on October 4, 2016 to answer to the charges enumerated on ticket number 5714, specifically that the Defendant violated Town ordinances Section 5-10 and Section 21-75.

2) THAT the Defendant was represented by Mary D. Shahid, Esquire and the Town was represented by John Dodds, Esquire. Both parties indicated to the Court that they were ready to proceed and were desirous of a bench trial.

3) THAT after hearing all the testimony presented by both the Defendant and the Town, the undersigned found the Defendant, Jason Thompkins, not guilty.

4) THAT a timely Notice of Intent to Appeal was filed by the Town.

5) THAT the Town by and through their attorney appeals the Court's decision because: The Zoning Ordinances for the Town require a Building Permit prior to the construction of a dock and an As Built Survey to confirm that the dock constructed is in compliance with the Town Ordinances.

6) THAT in reply to this appeal the Court would request that the entire trial transcript along with the exhibits presented at trial be introduced and be made a part of the record of the appeal.

7) THAT it is undisputed that:

- A) An application permit for a dock at 1102 Oscela Avenue was received by the Town on June 19, 2014.
- B) The application permit and building permit were approved with notations by the Town on June 30, 2014. (1)
- C) The Certificate of Zoning Compliance was approved with notations by the Town on June 30, 2014.
- D) The dock was completed in late 2014 but an As Built Survey was not submitted to the Town by the dock builder until June 28, 2016.
- E) The problem with the dock was discovered when a Certificate of Occupancy was applied for by the Defendant, Jason Thompkins on June 27, 2016.
- F) The above-referenced ticket was issued on June 29, 2016.

8) THAT testifying on behalf of the Town was Joseph Henderson who is the Zoning Administrator for the Town of Sullivan's Island.

- A) Mr. Henderson testified that he had a meeting with the dock building company and the engineer hired by the Defendant.
- B) Mr. Henderson testified that he participated in an email exchange with the engineer about the fact that the dock was conditionally approved but only if the dock did not extend beyond adjacent docks.
- C) Mr. Henderson testified that he brought the problem to the attention of the Defendant, Jason Thompkins, when he was completing the inspection for the Certificate of Occupancy on June 27, 2016.
- D) Mr. Henderson testified that he spoke with the Defendant, Jason Thompkins, about the problem with the dock and that the dock builder never submitted an As Built Survey which was required and would have brought the problem with the dock to the Town's attention earlier.

(1) The notations on the building permit application and certificate of zoning compliance were: pierhead, floating dock, and boat lift cannot exceed adjacent docks."

- E) Mr. Henderson testified that he emailed the dock builder about the problem with the dock after the inspection for the Certificate of Occupancy.

9) THAT testifying on behalf of the Town was Thomas Robinson who is the Chief Building Inspector for the Town of Sullivan's Island:

- A) Mr. Robinson testified that the building permit issued to the dock builder had a notation that the dock could not extend beyond adjacent docks.
- B) Mr. Robinson testified that the Town required an As Built Survey from the dock builder, Michael Murray, to make sure that the dock did not extend beyond adjacent docks.
- C) Mr. Robinson testified that an As Built survey was received on June 28, 2016, almost two years after the completion of the dock.

10) THAT the Defendant, Jason Thompkins, testified:

- A) Mr. Thompkins testified that he engaged an engineer, a surveyor and a dock builder for the purposes of building a dock on the property in question. At the time he initiated this action he was living in Columbia, South Carolina.
- B) Mr. Thompkins testified that his surveyor gave the As Built Survey to the dock builder, Michael Murray, and Mr. Murray was supposed to forward it to the Town of Sullivan's Island.
- C) Mr. Thompkins testified that he assumed based on the assurances of the dock builder that the As Built Survey was forwarded to the Town of Sullivan's Island.
- D) Mr. Thompkins testified that the first time he knew that the dock was built in violation of the ordinances was on June 27, 2016 when he had a conversation with Mr. Henderson, when Mr. Henderson came out to the property in reference to the Certificate of Occupancy.

11) THAT the dock builder, Michael Murray, testified:

- A) Mr. Murray testified that he acknowledged that he was told not to build the dock any further out than the adjacent docks.
- B) Mr. Murray testified that his crew did the best they could with lining barges up and looking at adjacent docks.

- C) Mr. Murray testified that it was not his intention to disregard the Town's ordinance.
- D) Mr. Murray testified that he did not send the As Built Survey back to the Town until after the problem with the dock was discovered.
- E) Mr. Murray testified that it was an oversight and it was mishandled or misplaced by his office.
- F) Mr. Murray took responsibility for the fact that the As Built Survey was never forwarded to the Town of Sullivan's Island.
- G) Mr. Murray testified that either he or his crew made a mistake but that he accepted responsibility for that.

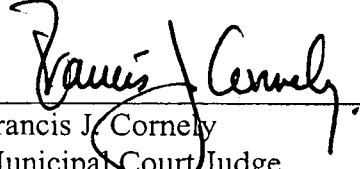
12) THAT based on the testimony presented, it is clear that the dock builder, Michael Murray, made a mistake building the dock further out than the adjacent docks. Mr. Murray was aware of that condition from the building permit. Mr. Murray further did not turn in the As Built Survey to the Town of Sullivan's Island as is required. Mr. Murray took responsibility for the violation and further that Mr. Murray indicated that it was not the fault of the homeowner, Jason Thompkins.

13) THAT after hearing all the testimony the Court found the Defendant, Jason Thompkins, not guilty of violating the Town Ordinances.

Charleston, South Carolina

January 31st, 2017

Respectfully submitted,



Francis J. Cornely
Municipal Court Judge
for the Town of Sullivan's Island

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

Town of Sullivan's Island,
Plaintiff

Case No. 2016-CP-10-5947

vs.

Jason Tompkins,
Defendant

**MEMORANDUM IN SUPPORT OF
AFFIRMANCE OF MUNICIPAL
COURT'S CONCLUSIONS RE
DEFENDANT TOMPKINS**

Background

Defendant Jason Tompkins is a member of the entity C & B Beach House, LLC (C & B.) C & B is the record owner of property described as 1102 Osceola Avenue, Sullivan's Island, Charleston County, S. C., TMS # 523-07-00-070. This appeal of a decision of the Honorable Francis J. Cornely, Municipal Court Judge for the Town of Sullivan's Island (the "Town"), is related to another matter pending before the Charleston County Court of Common Pleas – *Town of Sullivan's Island v. Michael Murray*, 2016-CP-10-5578¹. These two appeals arise from the issuance by the Town of two tickets, one to Mr. Tompkins and one to Tompkins' contractor and Michael Murray, charging violation of the Town's ordinances Section 5-10 and Section 21-75. The charges relate to construction of a private, recreational dock at 1102 Osceola Avenue providing water access to the Cove, also known as Cove Creek. Copies of these tickets are attached as **Exhibit A**² to this Memorandum, and while the quality of the copy is poor it is clear that the tickets constitute "Official Summons and Arrest Record," required the posting of a bond,

¹ This related appeal is pending before Judge Harrington.

² All referenced Exhibits were admitted in the record before the Municipal Court.

and the alleged violations of Sections 5-10 and 21-75 of the Town's Code were handled as criminal charges.

Michael Murray, Defendant in the related case 2016-CP-10-5578, is the owner of American Dock and Marine Construction ("American Dock and Marine") and was hired by C & B to design and supervise construction of the dock at 1102 Osceola Avenue on Sullivan's Island. Mr. Murray is a licensed marine contractor who holds a 100-ton Captain's license and has over forty years of marine and marine construction experience. American Dock and Marine specializes in dock construction, boatlifts, erosion control solutions, and any construction activity impacting wetlands or waters.

In or around 2014, Tidewater Environmental Services, Inc., acting as permitting agent and consultant to C & B, submitted an application to the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management ("DHEC") for a permit authorizing construction of a private recreational dock at 1102 Osceola Avenue. DHEC issued a permit to C & B on May 15, 2014, the term of which extends until May 15, 2019. A copy of this permit is attached as **Exhibit B** to this Memorandum. The permit drawings indicate a walkway of 584' extending to a fixed pier. A floating dock extends from one side of the fixed pier and a boatlift extends from the other side. The dock extends into the Cove on the back side of Sullivan's Island. The following information is represented on the permit drawings – "Work will be conducted in compliance with the terms and conditions of the General Permit # 2011-00940." The referenced General Permit is issued by the U. S. Army Corps of Engineers (the "Corps") and includes a special condition (d): "Structures located on or adjacent to federally authorized waterways shall extend no closer than 80' feet from the near bottom edge of the federal channel" The Cove, at the location of the permitted dock, is part of the Atlantic

Intracoastal Waterway and any dock constructed is required to maintain this off-set from the edge of the channel. The navigable channel of the Cove is a defined section within the waterway which has specific coordinates, is mapped, and is maintained by the Corps.

Upon receipt of the DHEC permit American Dock and Marine was hired to construct the dock. In accordance with the Town's ordinances Mr. Murray sought and obtained an Accessory Structures Permit from the Town. The Town issued its Accessory Structures Permit on June 30, 2014. The Accessory Structures Permit, attached as **Exhibit C**, does not include any specific terms and conditions. The Town also issued a Certificate of Zoning Compliance (**Exhibit D**) with a handwritten notation, under "Work Description" to "move pierhead, floating dock & boat lift landward to not exceed adjacent docks." The Certificate of Zoning Compliance also includes "Special Conditions of Approval" – "Application approved provided shown pierhead with roof; floating dock, and boatlift meet the conditions of Zoning Ordinance Section 21-75 and that all structures meet a 10'foot setback form the extended lot lines." The Certificate of Zoning Compliance is attached as **Exhibit D**. Under "Work Description" there are handwritten notes – "Move pierhead, floater & Boat lift landward to not exceed adjacent docks." But these handwritten notes are not reflected in the section entitled "Special Conditions of Approval."

A Building Permit Application was submitted, **Exhibit E**, which included a handwritten notation "not to exceed adjacent docks." Similar notations were indicated on the DHEC permit (Page 5 of Exhibit A) but, importantly, under the Special Conditions listed on the DHEC permit the only condition added by the Town was that the Town would also receive a copy of the required as-built survey.

On June 28, 2016, Mr. Murray provided Joe Henderson, the Town's Zoning Administrator, a copy of an As Built survey that indicated that the dock extended approximately

8' channel-ward of the seaward edge of adjoining docks. (Exhibit F). Mr. Henderson replied to Mr. Murray by email on June 28, 2016, advising that Mr. Murray is in violation of Z.O. 21-75(B)(1) and the conditions of the Building Permit 14-0135. (Exhibit G.) Tickets were issued to Erich Murray³ (Michael Murray's son and employee) and to Jason Tompkins. Mr. Murray and Mr. Tompkins were placed under arrest on June 29, 2016 and charged with violations of the Town's Zoning Ordinance Section 21-75 and the Town's Code Section 5-10. It is noted that in both instances a bond of \$1040.00 was posted. The undersigned filed a Motion to Dismiss with the Sullivan's Island Municipal Court and appeared before the Court on October 4, 2016. The Municipal Judge, the Honorable Frank Cornely, did not rule on the Motion and an evidentiary hearing in this matter was conducted the evening of October 4, 2016. Mr. Tompkins was acquitted but Mr. Murray was convicted of violation of the Town's Zoning Ordinance. The undersigned filed an appeal with this court of Mr. Murray's conviction which was followed by the Town's appeal of Mr. Tompkins' acquittal.

Legal Arguments in Support of Judge Cornely's Dismissal of Tickets Issued to Defendant Tompkins

Standard of Review

"In criminal appeals from a municipal court, the circuit court does not conduct a de novo review Therefore, our scope of review is limited to correcting the circuit court's order for errors of law." The Town of Mt. Pleasant v. Treva Roberts, 393 S. C. 332, 713 S. E. 2d 278 (2011). Violations of Section 21-75 of the Zoning Ordinance are addressed in Article XIX of the Ordinance – "Administration and Enforcement." Article XIX, Section 21-191 authorizes enforcement of the Town's Zoning Ordinance against "persons responsible for such violations." Section 21-191(D). Here the alleged violation is extension of the dock beyond existing adjacent

³ At the request of Michael Murray the Town has transferred responsibility for the ticket from Erich Murray to Michael Murray.

docks. It is clear from the testimony and evidence presented at the hearing before the Municipal Judge that American Dock and Marine, not Jason Tompkins, installed the dock.

Absent citation of a penalty provision generally applicable to all property owners regardless of whether the property owner took specific action resulting in violation of the Zoning Ordinance, there is no legal basis upon which to conclude that Defendant Tompkins is responsible for the alleged violations and no basis to conclude that the Municipal Court's findings related to Defendant Tompkins are in error.

More importantly, however, the tickets issued to both Mr. Tompkins and Mr. Murray are based on an alleged violation of a standard that doesn't exist. There is no requirement in the Town's Code or Zoning Ordinance that a dock must be constructed no further seaward than existing docks. The Town's Zoning Administrator, Mr. Henderson, confirmed this but testified before the Municipal Court that the requirement "not to exceed adjacent docks" was the Town's interpretation and policy.

"Ordinances ... are a valid exercise of a municipality's authority. Municipalities are granted broad police powers to enact ordinances with respect to any subject which appears necessary and proper for the security, general welfare and convenience of the municipality. ... However, a decision of a municipal zoning board will be overturned if arbitrary. ... When exercising discretion, a local board must be guided by standards which are **specific in order to prevent the ordinance from being invalid and arbitrary**.... The concept of vagueness or indefiniteness rests on the constitutional principle that procedural due process requires fair notice and proper standards for adjudication." Peterson Outdoor Advertising v. City of Myrtle Beach, 327 S. C. 230, 235, 489 S. E. 2d 630, 632 (1997) (Emphasis added.) "Criminal ordinances are, of course, to be strictly construed and a defendant has a right to know **just where he is charged**

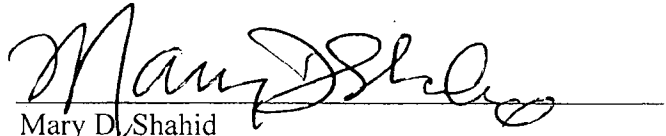
with the commission of a crime ...” Town of Conway v. Lee. Same v. Drayton et al., 209 S. C. 11, 38 S. E. 2d 914 (1946) (Emphasis added.) “The basic principles of statutory construction as applied to criminal statutes have been clearly and repeatedly set forth by our Supreme Court and by this Court. It is well established that in interpreting a statute, the court’s primary function is to ascertain the intention of the legislature. When the terms of the statute are clear and unambiguous, the court must apply them according to their literal meaning. Furthermore, in construing a statute, words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute’s operation. **Finally when a statute is penal in nature, it must be construed strictly against the State and in favor of the defendant.**” The State v. Leopard, 349 S. C. 467, 563 S. E. 2d 342 (2002) (Emphasis added).

Here the Sullivan’s Island Zoning Administrator is acting in an arbitrary fashion in enforcing a standard for dock construction that has not been promulgated. “A governmental body’s decision is arbitrary if it is without a rational basis, is based alone on one’s will and not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards.” (Emphasis added.) Pressley v. Lancaster County, 343 S. C. 696, 704, 542 S. E. 2d 336, 370 (2001). Since the Zoning Administrator applied an unwritten and arbitrary standard that is not included in the Zoning Ordinance, the arrest and conviction of Mr. Murray and Mr. Tompkins was not proper as such can only occur upon violation of the Ordinance. The Zoning Administrator had no authority to impose and then enforce this additional condition, absent promulgation of this express requirement.

Conclusion

A review of available aerial photography would indicate that, aside from being unauthorized, the issuance of the tickets is unwarranted. (**Exhibit H**) The seaward extension of the subject dock in relationship to the dock located to the northwest is barely perceptible. But what is clear from the photo is that there is no uniformity to the waterfront adjoining Osceola Avenue. The Cove curves in a northwesterly direction creating variable distances between the docks and the federal channel. The boundaries of the Cove meander resulting in an irregular MLW line. There simply is no basis upon which to conclude that the Zoning Administrator's attempt to condition the approvals to limit the seaward extension of the subject dock furthered any of the requirements of Sec. 21-75. More importantly, the charges result in a due process deprivation since the alleged violations are based on un-promulgated standards.

For the reasons set forth herein Defendant Tompkins requests that this Court affirm the Municipal Court's findings related to Defendant Tompkins.



Mary D. Shahid
NEXSEN PRUET, LLC
205 King Street, Suite 400 (29401)
P.O. Box 486
Charleston, SC 29402
843.577.9440

Attorney for Defendant Jason Tompkins

January 2, 2018
Charleston, South Carolina

EXHIBIT

A

DEPARTMENT OF POLICE
OFFICIAL SUMMONS AND
ARREST RECORD

CITY OF SULLIVAN'S ISLAND, S.C.

—VERSUS— SUMMONS NO.

Murray Erish
LAST NAME (PRINT) FIRST NAME MIDDLE NAME

ADDRESS 1533 Folley Road, Suite D5CITY Charleston 29412 STATE SC

DESCRIPTION				OCCUPATION			
RACE	SEX	D. O. B.	HGT.	WT.	HAIR	EYES	
W	M	1-13-1959	6'0"	185	Blk	Blue	

TRUCK
AUTO
MAKE
STATE
LIC. NO. 0046-45-000

DRIVERS LICENSE NO. 0046-45-000 STATE SC

OWNER OF VEHICLE

10:45 am - June 29, 2016 Good
DATE OF ARREST TIME ATTITUDE

LOCATION OF ARREST 2050-B Middle St S1 29482

Violation of 2-02-75 Dark Construction
NATURE OF OFFENSE TEST CODE 5-10 (SPEED)

YOU ARE HEREBY SUMMONED TO APPEAR BEFORE MAGISTRATE

AT HIS OFFICE 2050-B Middle St, Sullivan's IslandON DATE OF August 9, 2016 TIME 5:30 pm SC

\$ 1040.00 Joe Henderson, Z.A.
BOND POSTED ARRESTING OFFICER

DATE OF TRIAL NOT GUILTY
GUILTY

REMARKS:

SENTENCE IMPOSED

PAID FINE OF \$ SENT TO JAIL FOR DAYS
FORFEITED BOND

BY
CERTIFIED CORRECT DISPOSITION MAGISTRATE

113

COPY

114



5713

DEPARTMENT OF POLICE
OFFICIAL SUMMONS AND
ARREST RECORD
CITY OF SULLIVAN'S ISLAND, S.C.
—VERSUS— SUMMONS NO.

WILSON, RICH
LAST NAME (PRINT) FIRST NAME MIDDLE NAME
ADDRESS 1533 E. Bay Road Suite 200
CITY Sullivan's Island 29412 STATE SC

DESCRIPTION
RACE SEX D.O.B. HGT. WT. HAIR EYES
W M 1/18/1959 5'10 175 BLU BRN

TRUCK
AUTO
STATE SC
DRIVERS LICENSE NO. 2046-45006 STATE SC

OWNER OF VEHICLE

1242 Ave - Tour 14 2016
DATE OF ARREST TIME ATTITUDE

LOCATION
OF ARREST 2040-B Middle St SE 29412

NATURE OF OFFENSE 2040-B Middle St SE 29412
3-10 (SPEED)

YOU ARE HEREBY SUMMONED
TO APPEAR BEFORE MAGISTRATE

AT HIS OFFICE 2040-B Middle St Sullivan's Island

ON DATE OF August 9 2016 TIME 5:30 PM

\$ 1000.00
BOND POSTED ARRESTING OFFICER

DATE OF TRIAL NOT GUILTY
GUILTY

REMARKS:
SENTENCE IMPOSED

PAID FINE OF \$ SENT TO JAIL FOR DAYS
FORFEITED BOND

BY CERTIFIED CORRECT DISPOSITION MAGISTRATE



5714

DEPARTMENT OF POLICE
OFFICIAL SUMMONS AND
ARREST RECORD
CITY OF SULLIVAN'S ISLAND, S.C.
—VERSUS— SUMMONS NO.

WILSON, RICH
LAST NAME (PRINT) FIRST NAME MIDDLE NAME
ADDRESS 1533 E. Bay Road Suite 200
CITY Sullivan's Island 29412 STATE SC

DESCRIPTION
RACE SEX D.O.B. HGT. WT. HAIR EYES

TRUCK
AUTO
STATE SC
DRIVERS LICENSE NO. 2046-45006 STATE SC

OWNER OF VEHICLE

1242 Ave - Tour 14 2016
DATE OF ARREST TIME ATTITUDE

LOCATION
OF ARREST 2040-B Middle St SE 29412

NATURE OF OFFENSE 2040-B Middle St SE 29412
3-10 (SPEED)

YOU ARE HEREBY SUMMONED
TO APPEAR BEFORE MAGISTRATE

AT HIS OFFICE 2040-B Middle St Sullivan's Island

ON DATE OF August 7 2016 TIME 5:30 PM

\$ 1000.00
BOND POSTED ARRESTING OFFICER

DATE OF TRIAL NOT GUILTY
GUILTY

REMARKS:
SENTENCE IMPOSED

PAID FINE OF \$ SENT TO JAIL FOR DAYS
FORFEITED BOND

BY CERTIFIED CORRECT DISPOSITION MAGISTRATE

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

CRITICAL AREA PERMIT & COASTAL ZONE CONSISTENCY CERTIFICATION

Permittee(s): C & B Beach House, LLC
 Permit Number(s): OCRM-14-094-B
 Date of Issuance: May 15, 2014
 Expiration Date: May 15, 2019
 Location: On and adjacent to The Cove at 1102 Osceola Avenue, Sullivan's Island,
 Charleston County, South Carolina. TMS: 523-07-00-070.

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 (Supp. 2005). Please carefully read the project description and any special conditions that may 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. If there are no special conditions, then the work is authorized as described in the project description and as modified by the general conditions. 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 project if work commences during the life of the permit. This applies to permittee, future property owners, or permit assignees.

DESCRIPTION OF THE PROJECT, AS AUTHORIZED

The permitted work will consist of constructing a private recreational dock. Specifically, the permittee is authorized to construct a 4' x 584' walkway, with handrails, leading to a covered 15' x 15' pierhead. Ebbside of the pierhead, a 3' x 20' ramp will access an 8' x 20' floating dock. Floodside of the pierhead, a 12.5' x 12.5', four-pile boatlift is proposed. The work as described is for private, recreational use.

SPECIAL CONDITIONS

1. Provided the proposed walkway and fixed pierhead are constructed a minimum of 3' above mean high water.
2. Provided the handrails are constructed to what is minimally required for safety as outlined in the Southern Building Code.
3. Provided that any disturbed critical area adjacent to the construction site be restored to original contours and conditions upon project completion.
4. Once the project is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.
5. Provided that an as-built survey of the dock must be submitted to the Department within 90 days of the expiration date of the final construction placard. The survey must be performed by a registered land surveyor, must show all components of the dock, and must list the starting and ending coordinates of the dock walkway in the SC State Plane Coordinate System, which can be obtained by survey-grade Global Positioning System equipment.

Also provided
to Sullivan's
Island. GRR
6/30/14 HAM

115

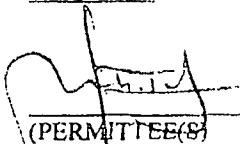
6. Provided that in the event that archaeological or paleontological remains are found during the course of work, the applicant should notify the South Carolina Institute of Archaeology and Anthropology (Mr. James Spirek at 803-777-8170) pursuant to South Carolina Underwater Antiquities Act of 1991, (Article 5 Chapter 7, Title 54, Code of Laws of South Carolina, 1976). Archaeological remains consist of any materials made or altered by man, which remain from past historic or prehistoric times (ie, older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures, or non-recent vessel remains. Paleontological remains consist of old animal remains, original or fossilized, such as teeth, tusks, bone, or entire skeletons.

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: OCRM-14-094-B

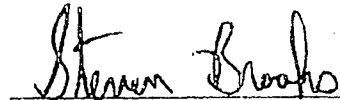
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



(PERMITTEE(S))
C & B Beach House, LLC

5/21/14
(DATE)

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



(PROJECT MANAGER, WETLAND SECTION)

Steven Brooks

or his Designee Other Authorized State Official

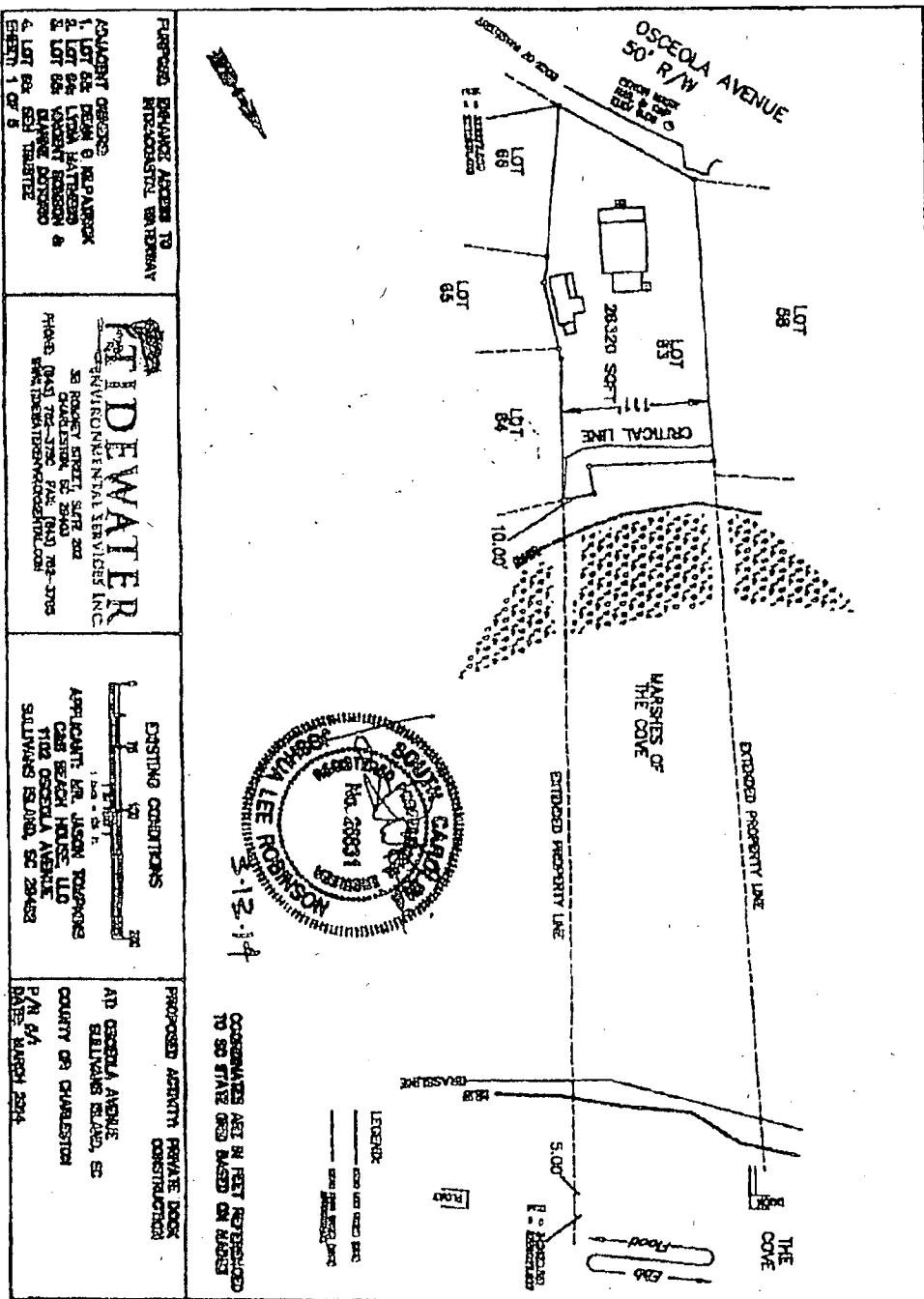
5/15/14
(DATE)

GENERAL CONDITIONS:

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

1. That 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 OCRM 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. That 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. That all authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. That 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. That 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. That the permittee shall permit OCRM or its authorized agents or representatives to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. That any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by OCRM.
8. That this permit may not be transferred to a third party without prior written notice to OCRM, 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. That 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. That 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. That 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. That the authorization for activities or structures herein constitutes a revocable license. OCRM may require the permittee to modify activities or remove structures authorized herein if it is determined by OCRM 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 OCRM intends to revoke the permit, Permittee agrees to immediately stop work pending resolution of the revocation.
13. That OCRM 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 OCRM'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, OCRM shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to OCRM. (South Carolina Code Section 1-23-370 shall govern the procedure for revocation, suspension or modification herein described).
14. That any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against OCRM or the State of South Carolina or any employee, agent, or representative of OCRM or the State of South Carolina.
15. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be 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. That 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 OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.

11B

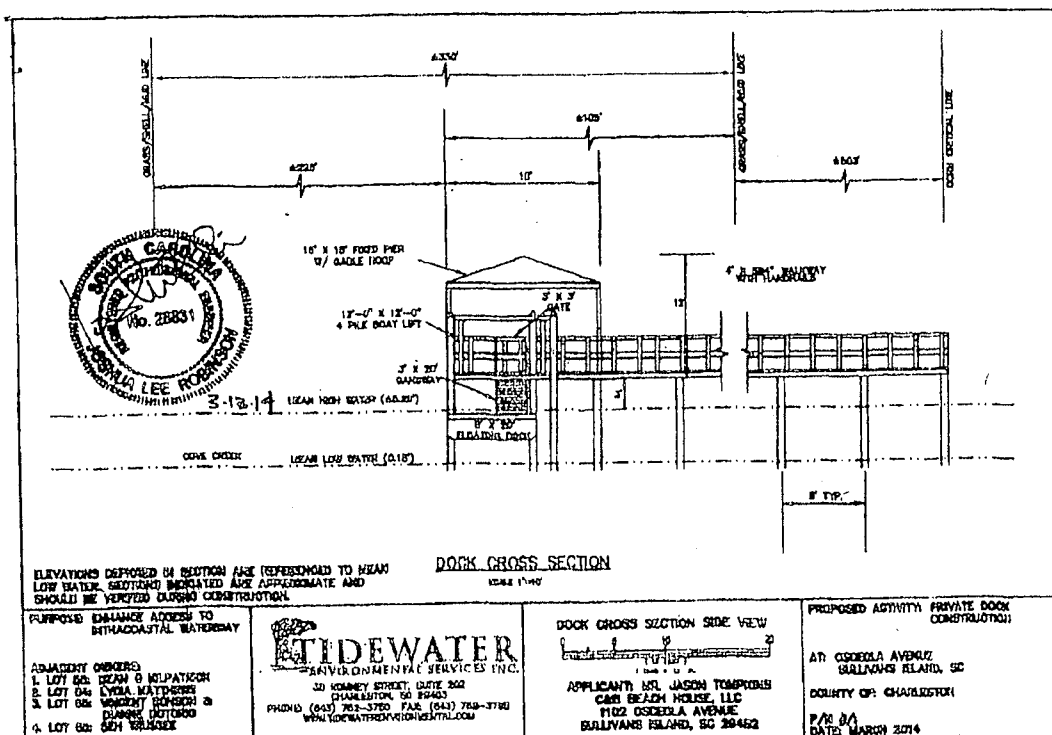


120

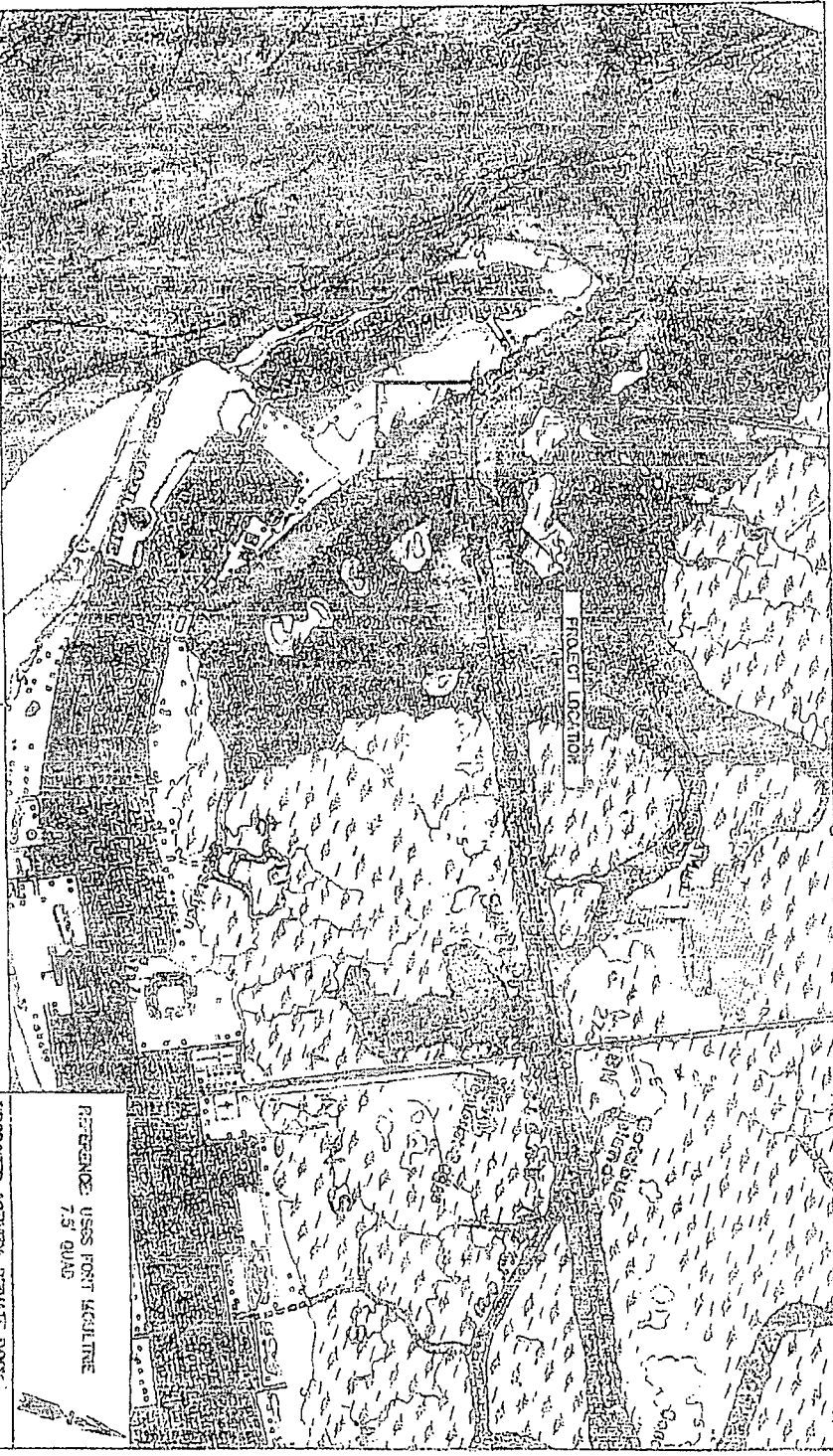
DOCK CROSS SECTION
SCALE 1"=10'

DOCK CROSS SECTION FRONT VIEW
SCALE 1"=10'

ADDITIONAL INFORMATION:
1. LOT 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 8



OCRM-14-094-B



PURPOSE: EGRESS ACCESS TO
HISTORICAL WATERWAY

ADJACENT OWNERS:
1. LOT 58: ERYN G. HILPATRICK
2. LOT 68: LYDIA HATHENS
3. LOT 85: WESLEY SORRELL &
DANIEL OOTOROKO
4. LOT 86: SUE FROST

ETIDEWATER
ENVIRONMENTAL SERVICES INC.
36 HONEY STREET, SUITE 202
CHARLESTON, SC 29403
PHONE: (843) 762-3750 FAX: (843) 762-3755
WWW.ETIDEWATERENVIRONMENTAL.COM

LOCATION MAP

NOT TO SCALE

APPLICANT: MR. JASON TOURJINS
C489 BEACH HOUSE, LLC
1102 OSCEOLA AVENUE
SULLIVANS ISLAND, SC 29452

PROPOSED ACTIVITY: PRIVATE DOCK
CONSTRUCTION

REF: OSCEOLA AVENUE
SULLIVANS ISLAND, SC

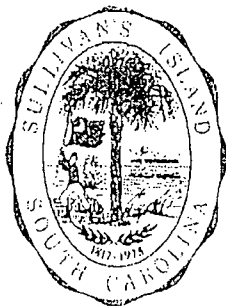
COUNTY OF: CHARLESTON

P/N 0/1

DATE: MARCH 2014

DCRM-14-094-B

EXHIBIT

C

Town of Sullivan's Island

Sullivan's Island, South Carolina

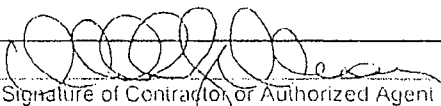
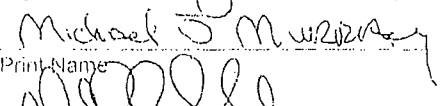
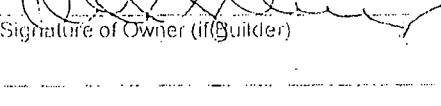
Accessory Structures Permit

Received
6-19-14

Sullivan's Island Building Department
2050-B Middle Street

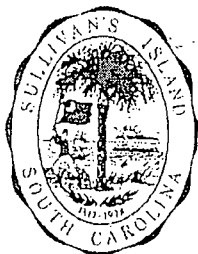
Phone: (843) 883-3198
Sullivan's Island South Carolina

Fax: (843) 883-3009
<http://www.sullivanisland-sc.com>

Address of Work Site: 1102 Osceola Ave		TMS #: 5230700070		Zoning:	
Owner of Property: C & B Beach House LLC		Mailing Address: 29 Retreat Ln			
Phone #:	Fax #:	Columbia		SC	29209
Contractor: American Dock & Marine construction, Inc#12475		Mailing Address: 1533d-5 Folly Rd			
Phone #: 843 795 2999	Fax #:	Charleston		SC	29412
City Business License #:		State License #:		Expiration Date:	
Architect/Designer:		Mailing Address:			
Phone #:	Fax #:				
Engineer:		Mailing Address:			
Phone #:	Fax #:				
Type of Work: Other		Explain Scope of Work: DOCK PERMIT			
 Signature of Contractor or Authorized Agent  Print Name  Signature of Owner (if Builder)		Valuation of Work: \$ 123300.00 Valuation on Building Permits will be calculated by Building Department. Separate permits may be required. Subcontractor information must be provided. NOTE: ALL SEWER & WATER FEES MUST BE PAID PRIOR TO THE ISSUANCE OF PERMITS ON NEW CONSTRUCTION.			
		Total Amount Paid:			
Total Sq. Ft.	Total Impervious	Total Heated Sq. Ft.	# Bathrooms	HVAC	
Lot Sq. Ft.	Const. Type	Occupancy	Elec. Amp	Fire Sprinklers	
# Stories	# Dwelling Unit(s)	# Bedrooms	Flood Elevation	# of Seats	
Date Issued: 6/30/14		PERMIT NUMBER: 14-0135			
Issued By: kat		Permit Amount \$: 1372.40			

123

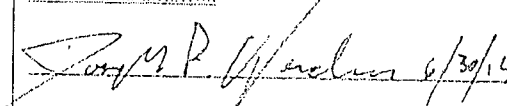
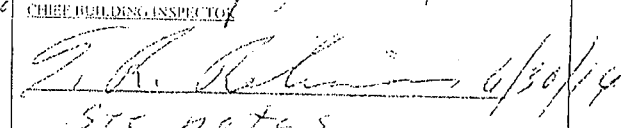
44552



Town of Sullivan's Island

Sullivan's Island, South Carolina

CERTIFICATE OF ZONING COMPLIANCE

JOB ADDRESS: 1102 Osceola Avenue (American Dock and Marine Construction)		DATE OF APPLICATION: 6-21-2013																									
TIS #: 523-07-00-070		DATE PERMIT APPROVED: 6-26-2013																									
NAME OF APPLICANT / AGENT: Michael Murray		PHONE: 843-795-2099																									
MAILING ADDRESS: 1533 D Folly Road, Charleston SC 29209		FAX:																									
PRIMARY CONTACT PERSON:		PAGER:																									
PHONE:		FAX:																									
MAILING ADDRESS:		PAGER:																									
TYPE OF PERMIT: ☐ Site Plan Approval ☐ Landscape Plan Approval ☐ Building Addition ☐ Building Alteration / Renovation ☐ Change in Occupancy Class. ☐ Signage ☐ Tree Removal ☒ Dock and Pier Head Construction		WORK DESCRIPTION: Applicants request approval to construct a new pier head with roof, floating dock and boat lift. ~~Have dock (boat lift) to go from extended property line.~~ F.R.R. 7/2/14 Have pier head, float & Boat 1 ft landward to not extend adjacent docks.																									
SPECIAL CONDITIONS OF APPROVAL: Application approved provided shown pier head with roof, floating dock, and boat lift meet the conditions of Zoning Ordinance Section 21-75 and that all structures meet a 10' foot setback from the extended lot lines.																											
NOTICE In accordance with the Sullivan's Island Zoning Ordinance Article SIX, § 21-186, this document shall become the CERTIFICATE OF ZONING COMPLIANCE when approved by the Building Department. The issuance of this permit shall be construed to be a license to proceed with the application for a building permit or with the approved work if a building permit is not required. The issuance of this permit shall not be construed as authority to violate, alter, or set aside any provisions of the Sullivan's Island Zoning Ordinance, or any other codes, ordinances, or regulations of the Town of Sullivan's Island. The issuance of this permit shall not prevent the Building Department from hereafter requiring a correction of error in plans where such error violates the Zoning Ordinance or other codes, ordinances, or regulations of the Town of Sullivan's Island. No alterations and/or renovations to the existing conditions of the premises shall be performed unless specifically illustrated or noted on the approved plans or herein this permit. Deviations from the approved plans or conditions of approval stated herein may be made only after written approval is obtained from the Building Department. I hereby certify that I have read and understand the requirements of this permit, the conditions of approval of this permit, the conditions noted on the approved plans and that there are no restrictive covenants on the tract or parcel of land for which this permit is being requested (per SC Code § 6-29.1145). I further understand that any deviation from the approved plans and conditions thereof shall constitute a violation of the Town of Sullivan's Island Zoning Ordinance.		<table border="1"> <thead> <tr> <th>SPECIAL APPROVALS</th> <th>REQUIRED</th> <th>APPROVED</th> </tr> </thead> <tbody> <tr> <td>Design Review Board</td> <td>N/A</td> <td></td> </tr> <tr> <td>Board of Zoning Appeals</td> <td>N/A</td> <td></td> </tr> <tr> <td>Planning Commission</td> <td>N/A</td> <td></td> </tr> <tr> <td>Tree Board</td> <td>N/A</td> <td></td> </tr> <tr> <td>Water and Sewer</td> <td>N/A</td> <td></td> </tr> <tr> <td>Police & Fire</td> <td>N/A</td> <td></td> </tr> <tr> <td>DHEC/OCRM</td> <td>N/A</td> <td></td> </tr> </tbody> </table>		SPECIAL APPROVALS	REQUIRED	APPROVED	Design Review Board	N/A		Board of Zoning Appeals	N/A		Planning Commission	N/A		Tree Board	N/A		Water and Sewer	N/A		Police & Fire	N/A		DHEC/OCRM	N/A	
SPECIAL APPROVALS	REQUIRED	APPROVED																									
Design Review Board	N/A																										
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Tree Board	N/A																										
Water and Sewer	N/A																										
Police & Fire	N/A																										
DHEC/OCRM	N/A																										
NAME OF APPLICANT / AGENT: _____ DATE: _____		ZONING ADMINISTRATOR  6/30/14																									
NAME OF CONTRACTOR: _____ DATE: _____		CHIEF BUILDING INSPECTOR  6/30/14 See notes																									

EXHIBIT

E

Town of Sullivan's Island

Sullivan's Island, South Carolina

BUILDING PERMIT APPLICATION

Sullivan's Island Building Department
2050-B Middle Street

Phone: (843) 883-3198
Sullivan's Island South Carolina

FAX: (843) 883-3099

City of Sullivan's Island Building Department

Address of Work Site: <u>1102 Osceola Ave.</u>		TMS# <u>523-07-00-070</u>		Zoning: _____	
Owner of Property: _____		Mailing Address: _____			
Phone #: _____		Fax #: _____			
Contractor: <u>AMERICAN DOCK MARINE</u>		Mailing Address: <u>1533 D-S Folly Road</u>			
Phone #: <u>795-2949</u>		Fax #: <u>762-5838</u>			
City Business License #: <u>1205</u>		State License #: <u>12475</u>		Expiration Date: <u>10/31/2014</u>	
Architect/Designer: _____		Mailing Address: _____			
Phone #: _____		Fax #: _____			
Engineer: _____		Mailing Address: _____			
Phone #: _____		Fax #: _____			
Type of Work: New ☒ Addition ☐ Alteration ☐ Repair ☐ Move ☐ Remove ☐ Other ☐					
Commercial ☒ Residential ☐ Other ☐					
Explain Scope of Work: <u>Construction of dock</u>					
Signature of Contractor or Authorized Agent <u>Michael J. Murray</u>		VALUATION OF WORK: <u>\$123,300.00</u>			
Print Name <u>Michael J. Murray</u>		Valuation on Building Permits will be conducted by Building Department. Separate permits may be required. Subcontractor information must be provided.			
Signature of Owner (if different) <u>[Signature]</u>		NOTE: ALL SEWER & WATER FEES MUST BE PAID PRIOR TO THE ISSUANCE OF PERMITS ON NEW CONSTRUCTION.			
Print Name <u>[Signature]</u>		APPROVED as noted			
Approvals	Building <u>T.M.</u>	Zoning <u>6-30-14</u>	Total Sq. Ft.	Total Improvements	Total Hooked Sq. Ft.
Building Permit	\$		Lot Sq. Ft.	Const. Type	Occupancy
Electrical Permit			# Stories	# Dewatering Unit	# Bedrooms
Plumbing Permit			# Bathrooms	Elect. Amp	HVAC
Mechanical Permit			Roof Elevation	Fire Sprinklers	# of Seats
Gas Permit			Date Issued: _____		
Sign Permit			Issued By: _____		
Plan Review Fee			Permit # _____ Permit Amt \$ _____		
Fire Sprinklers					
Other					
Total Amount Due \$					

125





>
> Mr. Murray,
>
> I've attached several pictures taken during my inspection of June 27th
> and an aerial rendering showing the walkway, pier head and floating
> dock at 1102 Osceola. Also attached, is a copy of your Building Permit
> that shows you agreed to meet the Town's requirements (i.e. that the
> walkway, pier head and floating dock must not be constructed any
> closer to the creek than either of the adjacent docks so as not to
> interfere with the navigation of vessels). This is a requirement of
> Z.O. 21-175 (B) (1), and was noted as a condition on Building Permit
> 14-0135.
>
> If possible, I would like to meet with you to discuss this violation,
> either tomorrow, June 29th or Tuesday, July 5th. Please let me know
> your availability.
>
> Thank you,
>
> _____
>
> Joe Henderson, AICP, CFM
>
> Zoning Administrator, ISA Arborist
>
> TOWN OF SULLIVAN'S ISLAND
>
> 2050-B Middle Street | SC 29482
>
> Tel 843.883.5731 | Fax 843.883.3009
>
> jhenderson@sullivansisland-sc.com
>
> -----Original Message-----
> From: American Dock & Marine Construction
> [<mailto:ammarine@americandock.net>]
> Sent: Tuesday, June 28, 2016 12:27 PM
> To: Joe Henderson
> Subject: Jason Tompkins As Built Survey and Consent Letter-1102
> Osceola
>
> Good afternoon Mr. Henderson,
>
> Please find attached as built survey of 1102 Osceola Dr. along with
> the consent letter from adjacent property owner. The issue in question
> of whether the dock has been sited approx. 8' too far into the creek
> was a matter that was solved in 2015. There is between 8'-10' of
> upland walkway that was constructed in Mr. Tompkins yard that should
> have been designated as such or not included in the final drawing.
>

127

Charleston County GIS Viewer Exhibit H



1:1880

128

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016-CP-10-5947

Town of Sullivans Island
PLAINTIFF(S)

Jason Thompkins
DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Plaintiff's Notice of Appeal filed on November 29, 2017, is Denied upon a finding that no error of law was committed by the lower court.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

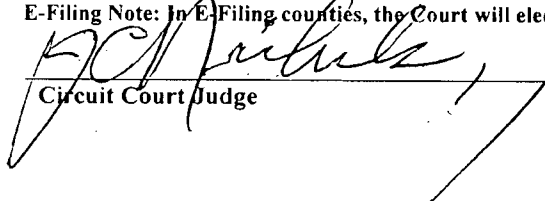
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		

If applicable, describe the property, including tax map information and address, referenced in the order:
N/A

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.


Circuit Court Judge

2117

Judge Code

01/08/2018

Date

**STATE OF SOUTH CAROLINA
IN THE
COURT OF APPEALS**

Appeal from the Court of Common Pleas
For Charleston County
Honorable Kristi L. Harrington, Circuit Court Judge
Civil Action No.: 2016-CP-10-5578
Appellate Case No.: 2018-00511

TOWN OF SULLIVAN'S ISLAND,

Respondent,

v.

MICHAEL MURRAY,

Appellant.

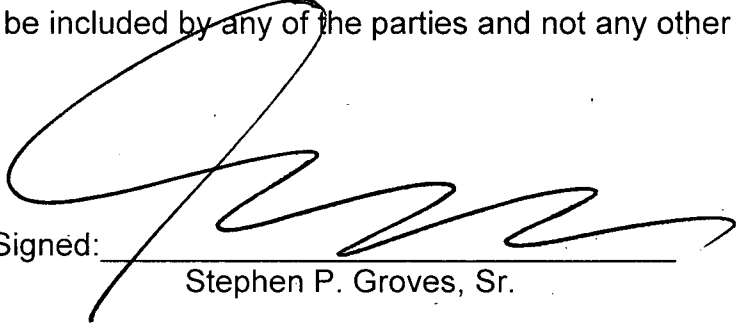
**Rule 210(g), SCACR, Certificate of Counsel
(Volume I)**

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*Attorneys for the Appellant,
Michael Murray*

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I, Stephen P. Groves, Sr., Esquire, hereby certify, pursuant to Rule 210(g), SCACR, that this **Record on Appeal (Volumes I and II)** contains all of the material and documentation proposed to be included by any of the parties and not any other material.

Signed: 

Stephen P. Groves, Sr.

Charleston, South Carolina

7 November 2018

NPCHAR1:2529654.1-TBF-(SPG) 059803-00001

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