

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Marvin H. Dukes III, Circuit Court Judge

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JUN 19 2020

SC Court of Appeals

Case No.: 2017-CP-07-00327
Appellate Case No.: 2019-001860

Beaufort County, ...Appellant,
v.

Timothy A. Summerall, ...Respondent.

RECORD ON APPEAL

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FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2017 CP-07-00327

Beaufort County

Timothy A. Summerall

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: BEAUFORT COUNTY MASTER IN EQUITY

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.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ 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, 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:

This came before me October 4th, 2019 on Beaufort County's Motion to Reconsider, filed June 26th, 2019. After hearing from parties and review of the file I hereby deny the motion.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC 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	N/A	\$N/A
		\$
		\$

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.

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:

Christopher L. MurphyPatrick J. McDonald**ATTORNEY(S) FOR THE PLAINTIFF(S)**Terry A. Finger**ATTORNEY(S) FOR THE DEFENDANT(S)****CLERK OF COURT****Court Reporter:** N/A



Beaufort Common Pleas

Case Caption: Beaufort County VS Timothy A. Summerall
Case Number: 2017CP0700327
Type: Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

Electronically signed on 2019-10-09 15:12:59 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2017-CP-07-00327
	)	
BEAUFORT COUNTY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	FINAL ORDER ENDING CASE
	)	
TIMOTHY A. SUMMERALL,	)	
	)	
Defendant.	)	

THIS NON-JURY MATTER came before me on March 19, 2019 for a final hearing on the merits with any appeal to the South Carolina Court of Appeals. Present on behalf of the Plaintiff was Thomas Keaveny, County Attorney, and Christopher L. Murphy, attorney for the Plaintiff. Present was the Defendant Timothy A. Summerall and his attorney, Terry A. Finger. Also present were various witnesses for the Parties.

BACKGROUND

The Plaintiff has claimed in this action that it owns a 50 foot road right of way, called Bostick Road. Defendant owns property adjacent to Bostick Road. Plaintiff alleges that Defendant has constructed a fence that crosses through the Bostick Road Right of Way. (Paragraph 9 of Complaint). Plaintiff seeks damages in Trespass and Private Nuisance and further seeks a mandatory injunction requiring Defendant to move the fence.

Defendant denied the fence encroachment and counterclaimed to quiet the title and the boundary to his Lot 1 in his favor. Defendant further sought an award of his reasonable attorney fees and costs.

Prior to the start of any testimony, the Plaintiff introduced Plaintiff's Exhibit 1 without objection. The parties stipulated that any handwritten notes on the plats were not official parts of the exhibits. This

Plaintiff composite exhibit had sub-exhibits A through M (containing plats and deeds). Additional exhibits were introduced during the course of the trial.

The Plaintiff called Josh Gruber, former County Attorney at the relevant time, David Gasque, Zyad Khalil, and Vicky Gault. Mr. Gasque and Mr. Kahlil are licensed surveyors and were qualified as experts. Vicky Gault was an expert title examiner. The attorney for the Defendant called David Youmans and Defendant as witnesses. Mr. Youmans and Defendant are also both licensed surveyors and were qualified as experts.

I have reviewed the pleadings, testimony, and exhibits, heard the arguments of counsel, and gauged the credibility of the witnesses. Based upon this review, I make the following

FINDINGS OF FACT

1. Defendant owns Lot 1 adjacent to Bostick Road as shown on Plaintiff's Exhibit 1A. This exhibit is a Plat dated September 15, 1965, recorded in Plat Book 15 at page 31 prepared by H.F. Wilson (hereinafter referred to as the Wilson Plat). For ease of reference, this Wilson Plat is attached.
2. The Wilson Plat established the subdivision where lot 1 is located.
3. The Wilson plat has a right angle where the western boundary of Lot 1 along Bostick Road intersects the northern boundary. It further shows a right angle along Bostick Road where Lot 15 will later be located by subdivision.
4. The Wilson Plat was the plat used in the first deed out from the common grantor to in initial owner of Lot 1 (Trask to Bell dated August 30, 1969 recorded in Deed Book 167 at page 1).
5. Subsequent deeds to Lot 1 in Defendant's chain of title used the Wilson Plat to describe the property.
6. The boundaries to Lot 1 were established before Block C (containing Lot 15- across Bostick Road from Lot 1) became platted and subdivided.

7. The subdivision Plat for Block C, Lot 15 is Plaintiff's Exhibit 1B. This plat was dated June 1966, recorded in Plat Book 15 at page 71 prepared by Roy Hussey (hereinafter referred to as the Hussey Plat). For ease of reference, this Hussey Plat is attached.
8. The Hussey plat was not correct as it showed the right angle on Lot 1 to be modified (see Finding of Fact 3 above). Any gain of property by newly platted lot 15 by this error in the Hussey Plat cannot come at the cost of property from Lot 1.
9. The error in the Hussey Plat was subsequently corrected by a plat dated August 1, 1967, recorded in Plat Book 17 at page 32 prepared by Niels Christensen (hereinafter referred to as the Christensen Plat). For ease of reference, this Christensen Plat is attached.
10. The Christensen Plat was used in property descriptions in deeds that were in the chain of title for Lot 15.
11. The Wilson Plat established the width of Bostick Road at 60 feet.
12. In 2005, the Trasks deeded Bostick Road to the Plaintiff, Beaufort County. This deed could not and did not alter the western boundary of Lot 1 along Bostick Road.
13. In 2011, Beaufort County agreed with Defendant's predecessor in title to narrow Bostick Road to 50 feet. Quit claim deeds were exchanged using a plat dated November 28, 2005 recorded in Plat Book 110 at page 42 prepared by David Gasque (hereinafter referred to as the 2005 Gasque Plat). Plaintiff's Exhibit 1D. For ease of reference, this 2005 Gasque Plat is attached.
14. The 2005 Gasque Plat had various areas labeled as "Areas of Confusion" and noted the "Survey does not match plat of recorded (SIC)" and "Phase Plats of Subdivision do not agree."
15. The 2005 Gasque Plat, as it states on its face, and the quit-claim deeds increased the confusion resulting from the incorrect Hussey Plat.
16. By agreeing to reduce the right of way to 50 feet, Beaufort County intended to add the reduced footage (10 feet) to Lot 1, now owned by Defendant.
17. Plaintiff's Exhibit 1M is a 2016 plat by David Gasque that shows the various property lines and references the various plats put into evidence (hereinafter the 2016 Gasque Plat). It further shows

the Hussey Plat mistake, corrected by the Christensen Plat. It further shows the professional opinions of David Youmans and Defendant as to the correct boundary line of Lot 1 along Bostick Road. For ease of reference, this 2016 Gasque Plat is attached.

18. The correct property line for Lot 1 owned by Defendant is labeled "Line as per Plat by David S. Youmans additional 10.0' being quit claimed."
19. Plaintiff's Exhibit 1J is a plat by David Youmans that properly shows the boundary of Defendant's Lot 1 with the 10 feet of the Bostick Road Right of Way added to its western boundary. For ease of reference, this Youmans Plat is attached.

Based upon these Findings of Fact, I make the following:

CONCLUSIONS OF LAW

1. The court has proper jurisdiction over the subject matter and parties.
2. At the conclusion of the Plaintiff's case, on the motion of the Defendant, I granted an involuntary non-suit on the Plaintiff's causes of action for trespass and private nuisance. This Order reaffirms that ruling.
3. The case is essentially a quiet title action to establish the western boundary of Lot 1 along Bostick Road.
4. The Hussey Plat had incorrectly moved and adjusted the Bostick Road lot line on Lot 1. A plat alone cannot convey property or move a previously established lot line on adjacent property. The Hussey Plat legally did not alter the Lot 1 boundary along Bostick Road.
5. Plaintiff failed to prove by the greater weight or preponderance of the evidence that it was entitled to prevail on its Complaint or that Defendant's fence was in the County owned Right of Way.
6. Defendant proved its case by the greater weight of the evidence and is entitled to prevail on his quiet title claim concerning the location of his boundary along Bostick Road.

7. I find and rule that Defendant's westerly boundary along Bostick Road is shown on Plaintiff's Exhibit 1M and it is labeled "Line as per plat by David S. Youmans additional 10.0' being quitclaimed." The boundary is further set out on Plaintiff's Exhibit 1J.
8. The Defendant's request for attorney fees is denied as there is no contract, statute, or common law theory that would authorized same.
9. Any Finding of Fact above that is also a Conclusion of Law is so adopted.

NOW THEREFORE, IT IS ORDERED:

1. The Plaintiff's Complaint is dismissed with prejudice;
2. Defendant's boundary of Lot 1 along Bostic Road is as set forth in Conclusion of Law number 6 above. A copy of Plaintiff's Exhibits 1M and 1J are attached to this Order for ease of any further title examinations.

AND IT IS SO ORDERED.

THE HONORABLE MARVIN H. DUKES, III
Master in Equity, Beaufort County, South Carolina

Beaufort, South Carolina
June _____, 2019.

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2017-CP-07-00327

BEAUFORT COUNTY
PLAINTIFF(S)

TIMOTHY A. SUMMERALL
DEFENDANT(S)

Submitted by: Terry A. Finger	Attorney for: 9 Plaintiff X Defendant 9 Self-Represented Litigant
-------------------------------	--

DISPOSITION TYPE (CHECK ONE)

- 9 JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- X 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. 9 See Page 2 for additional information.
- 9 ACTION DISMISSED (CHECK REASON): 9 Rule 12(b), SCRPC; 9 Rule 41(a), SCRPC (Vol. Nonsuit); 9 Rule 43(k), SCRPC (Settled); 9 Other
- 9 ACTION STRICKEN (CHECK REASON): 9 Rule 40(j), SCRPC; 9 Bankruptcy; 9 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; 9 Other
- 9 DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
9 Affirmed; 9 Reversed; 9 Remanded; 9 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: 9 See attached order (formal order to follow) 9 Statement of Judgment by the Court:

ORDER INFORMATION

This order X ends 9 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	Judge Code	Date
For Clerk of Court Office Use Only		
This judgment was entered on the day of _____, 20____ placed in the appropriate attorney's box on this _____ to parties (when appearing pro se) as follows: _____	and a copy mailed first class or day of _____, 20____	to attorneys of record or _____
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 I.

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

[illegible]



Beaufort Common Pleas

Case Caption: Beaufort County VS Timothy A. Summerall

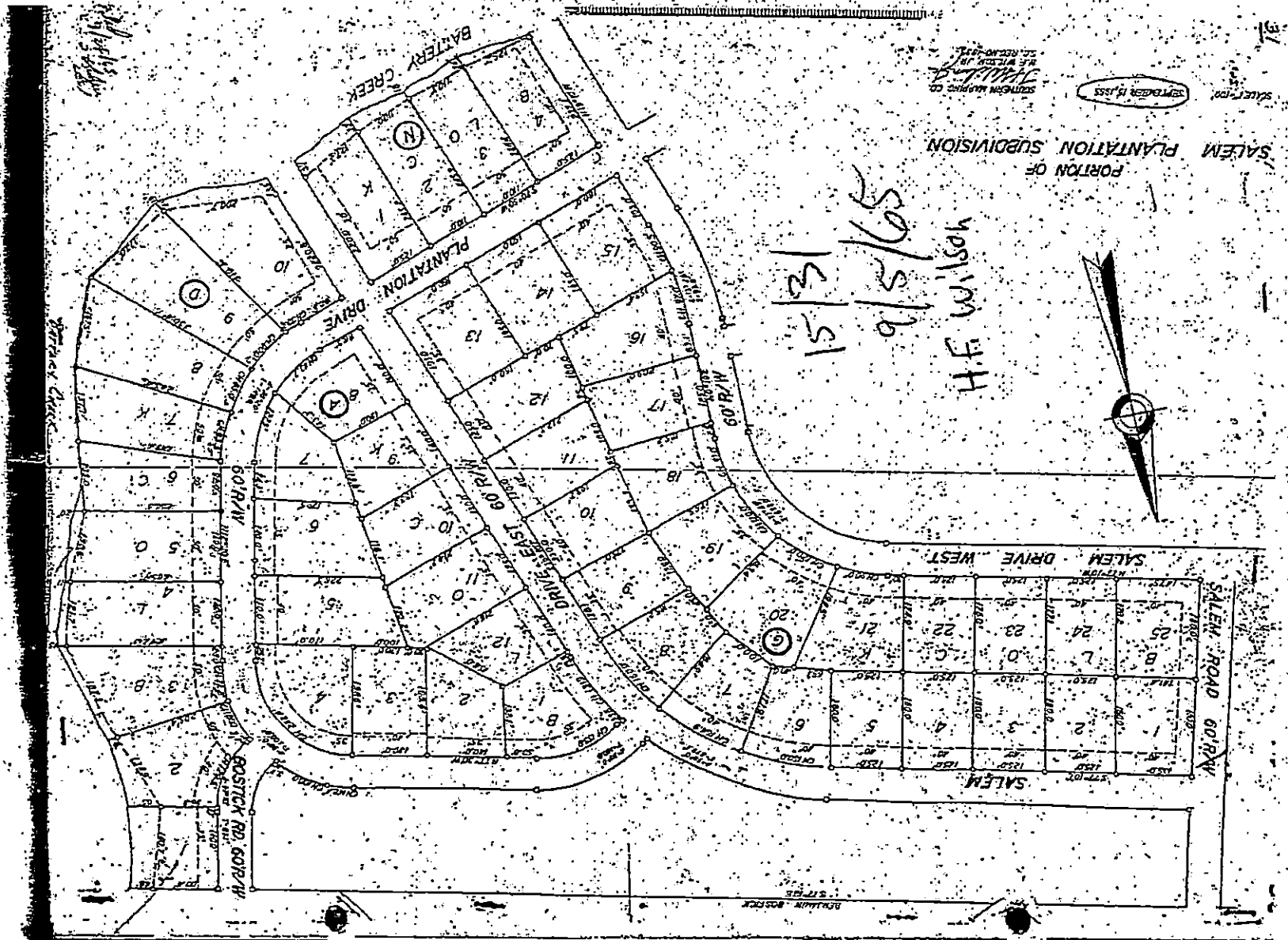
Case Number: 2017CP0700327

Type: Order/Form 4

So Ordered:

s/Marvin H. Dukes III #3069

Electronically signed on 2019-06-19 10:44:09 page 8 of 8



P.B. 15 P. 631

http://oldweb.bcgov.net/PLATS/0000310.NF

SOUTHERN MAPS CO.
H.F. WILSON, JR.
PLAT NO. 310

RECORDED IN 1965

STATE OF NC

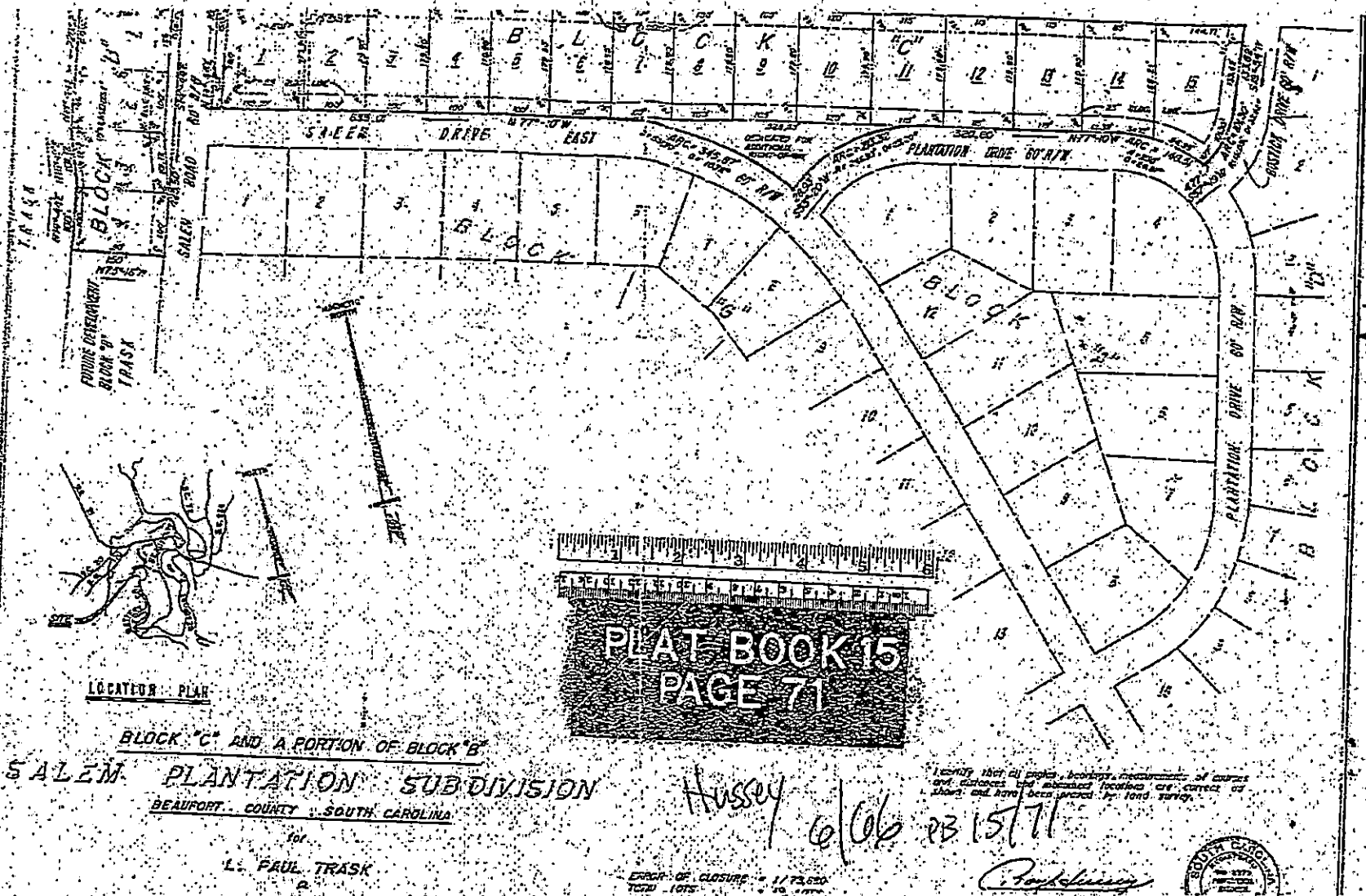
PORTION OF
SALEM PLANTATION SUBDIVISION

15/3
9/5/65
H.F. Wilson

Wilson Plat

RECORD 0012

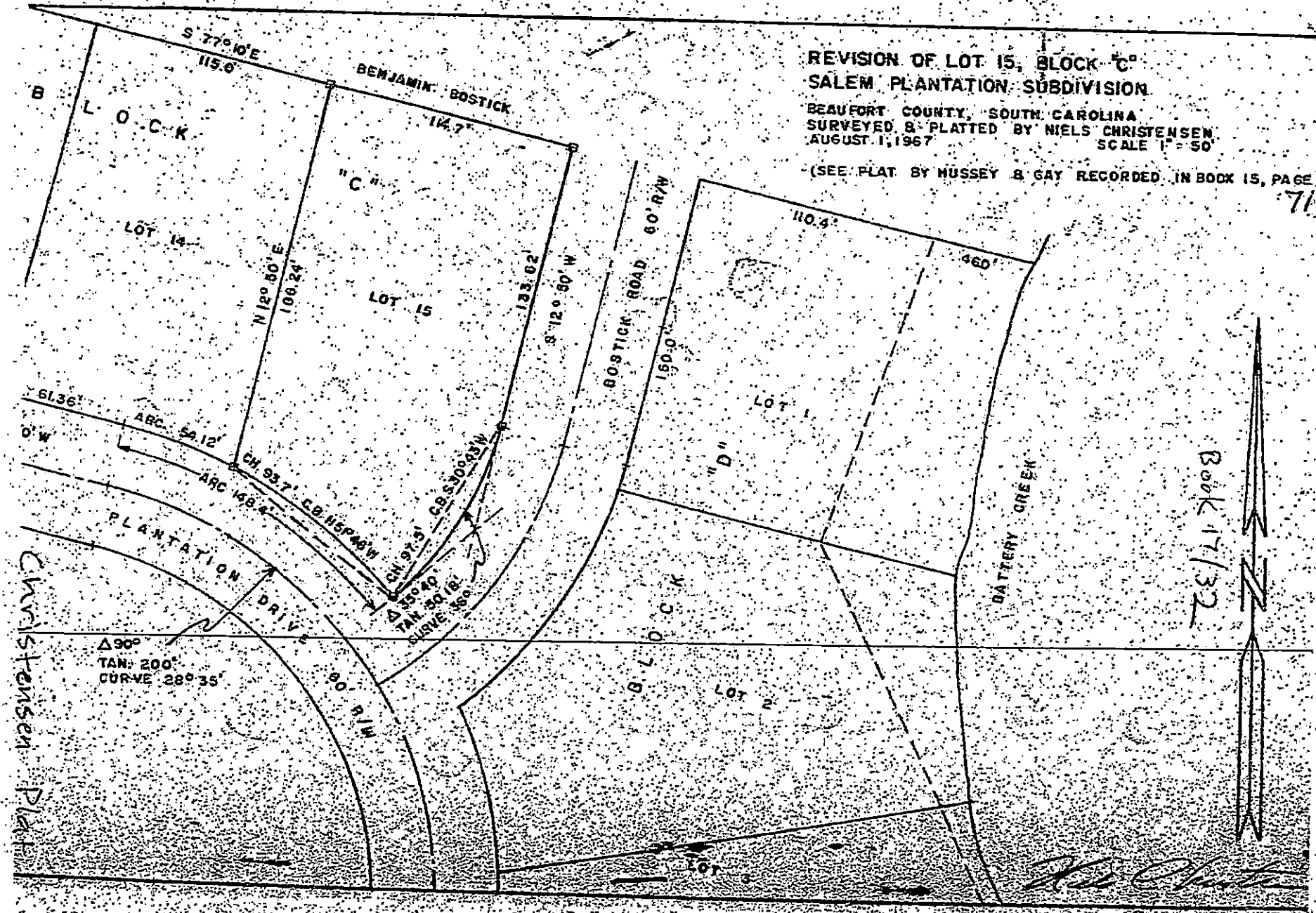
Hussey Plat



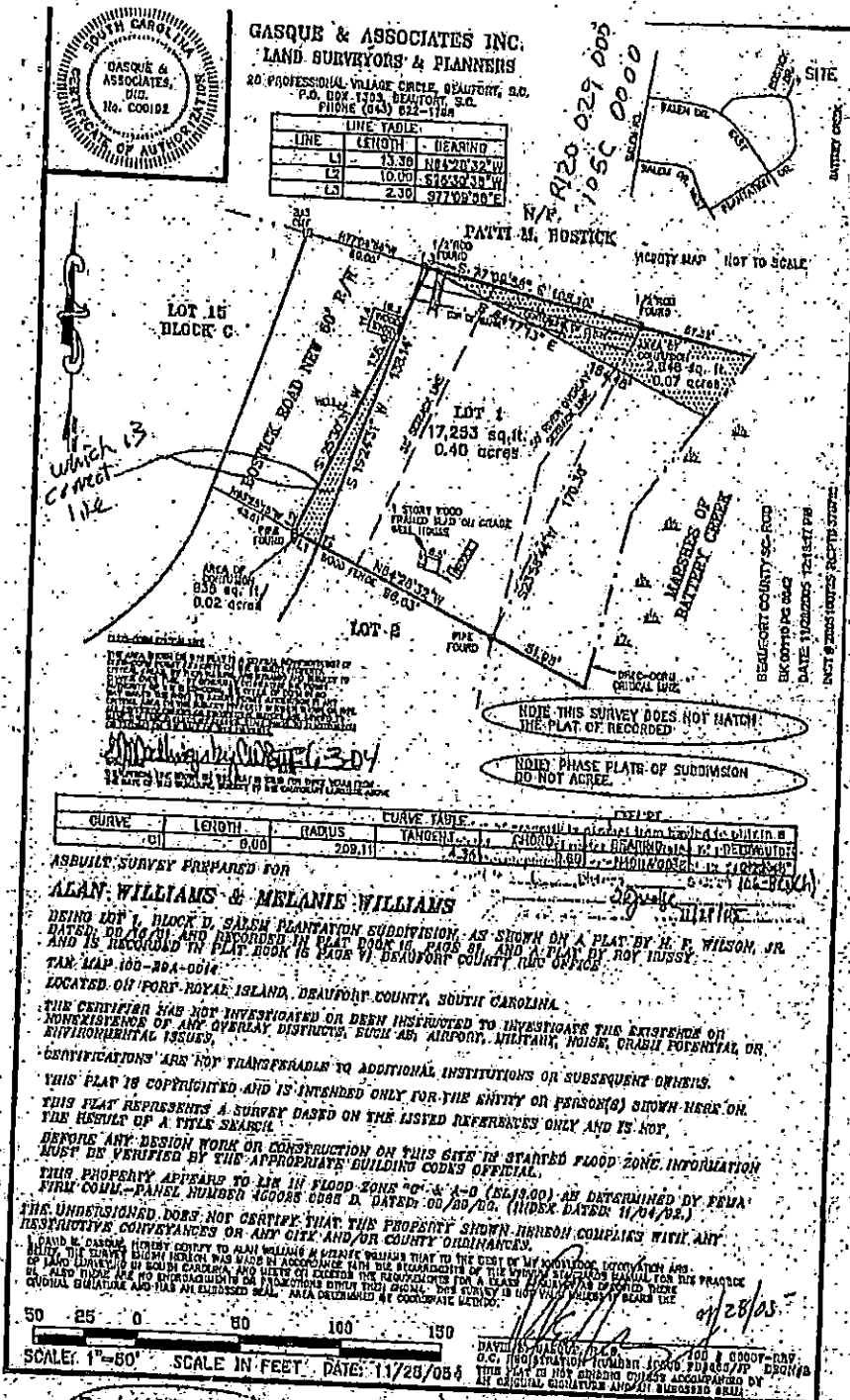
REVISION OF LOT 15, BLOCK "C"
SALEM PLANTATION SUBDIVISION

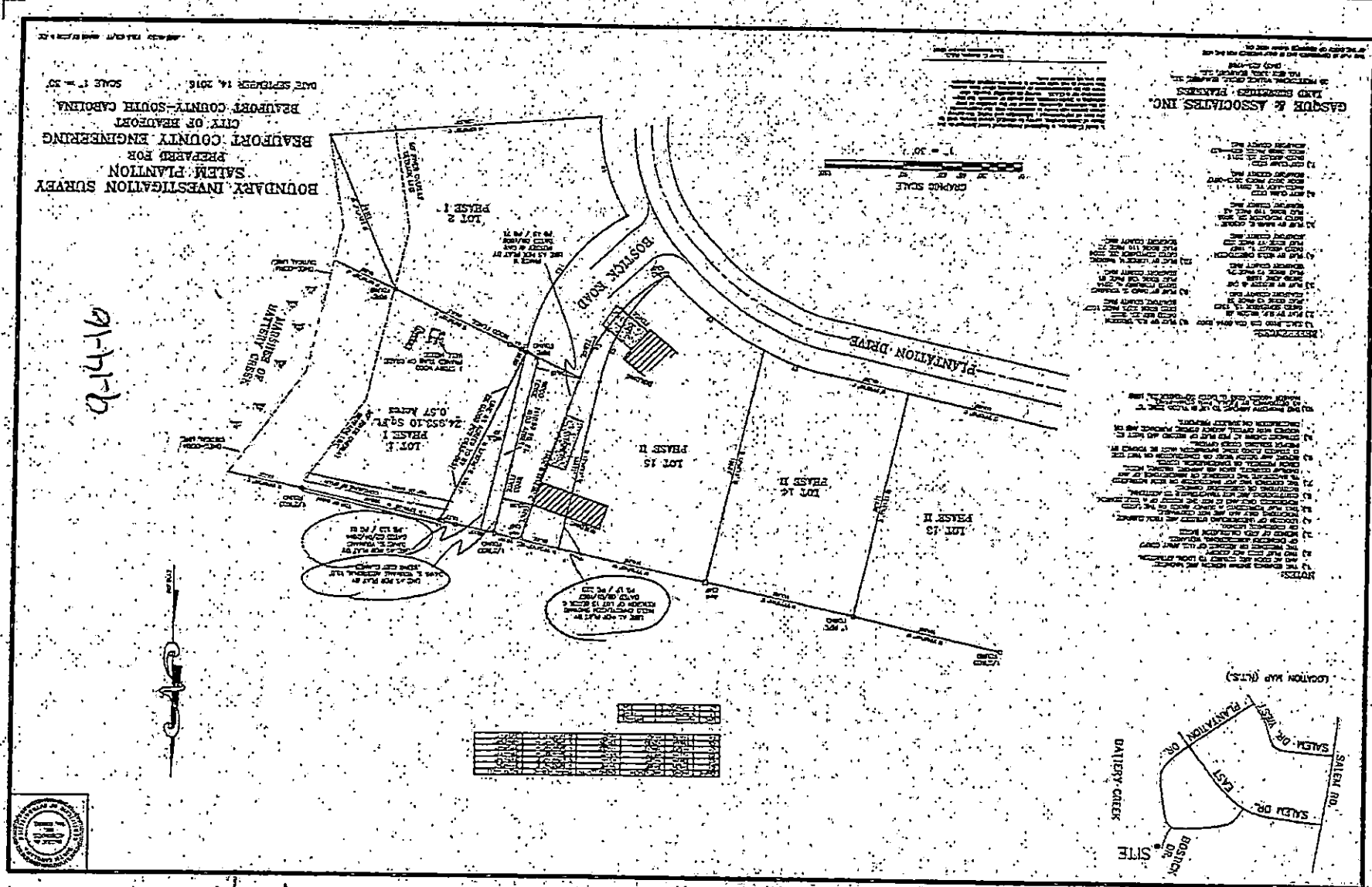
BEAUFORT COUNTY, SOUTH CAROLINA
SURVEYED & PLATTED BY NIELS CHRISTENSEN
AUGUST 1, 1967 SCALE 1" = 50'

(SEE PLAT. BY MUSSEY & GAY RECORDED IN BOOK 15, PAGE 71)



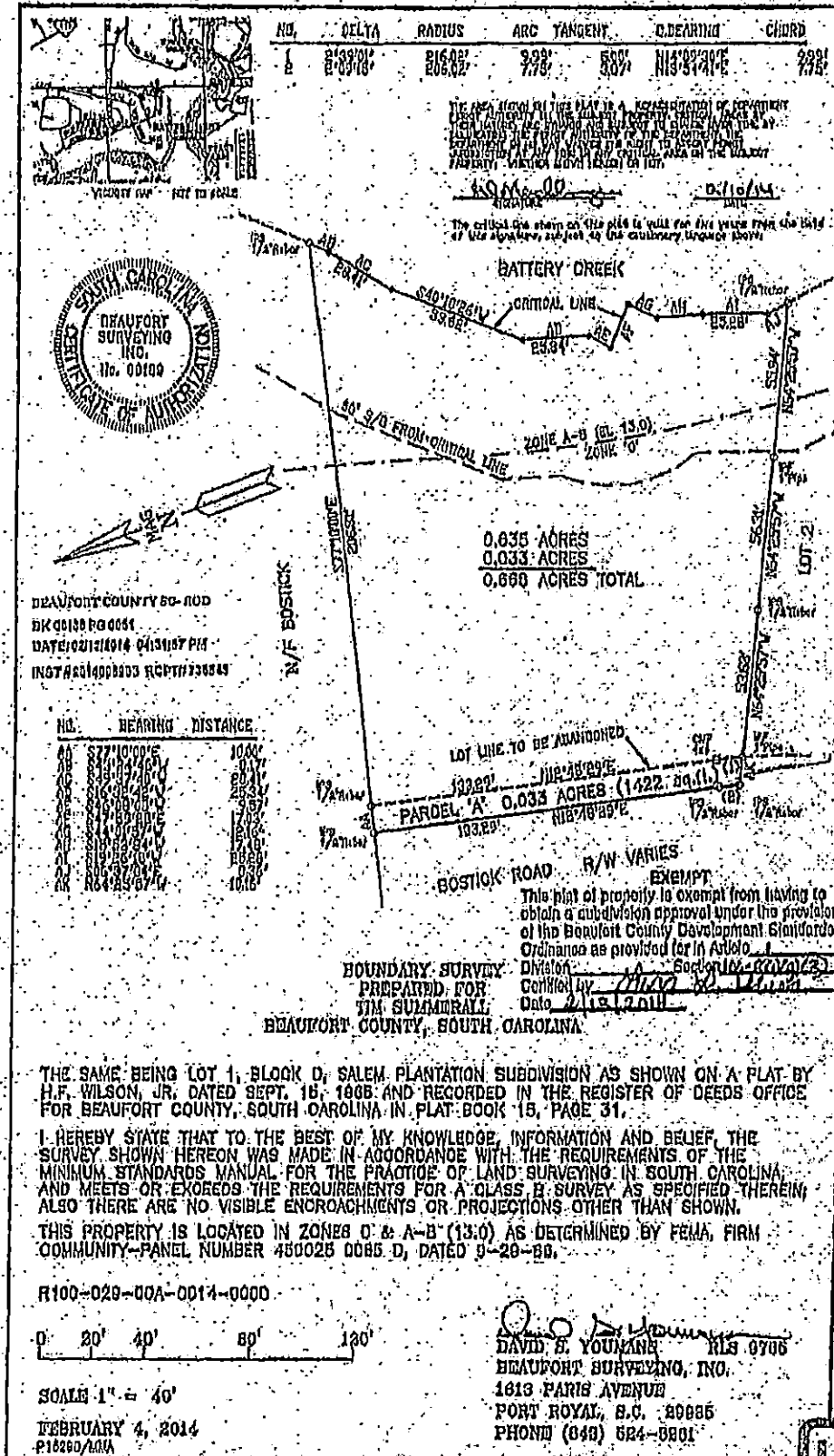
Book 17/32





Casque Plat 2016

RECORD 0016



2014 Plat

Incorrectly added to this plat

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	C/A NO.: 2017-CP-07-_____

Beaufort County,	)	
	)	
Plaintiff,	)	SUMMONS
	)	(Non-Jury Trial
vs.	)	Demanded)
	)	
Timothy A. Summerall,	)	
	)	
Defendant.	)	
_____	)	

TO: THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action a copy of which is herewith served upon you, and to serve a copy of you Answer upon the undersigned attorneys at 234 Seven Farms Drive, Suite 128, Charleston, SC 29492, within thirty (30) days from service hereof, exclusive of the day of such service; and, if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you, and the Plaintiff in this action will apply to the Court for the relief demanded.

RESPECTFULLY SUBMITTED this 23rd day of February, 2017.

/s/Patrick J. McDonald
Patrick J. McDonald, Esquire
Resnick & Louis, P.C.
234 Seven Farms Drive, Suite 128
Charleston, SC 29492
(843) 270-0675
pmcdonald@rlattorneys.com

-AND-

/s/Christopher L. Murphy
Christopher L. Murphy
Resnick & Louis, P.C.
234 Seven Farms Drive, Suite 128
Charleston, SC 29492
(843) 800-1187
cmurphy@rlattorneys.com

Attorneys for Plaintiff (Beaufort County)

Charleston, South Carolina

Dated: February 23, 2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	C/A NO.: 2017-CP-07-_____

Beaufort County,	)	
	)	
Plaintiff,	)	COMPLAINT
	)	(Non-Jury Trial
vs.	)	Demanded)
	)	
Timothy A. Summerall,	)	
	)	
Defendant.	)	
_____	)	

Plaintiff, Beaufort County, sues defendant and alleges:

1. This is an action for, trespass, negligence, and private and public nuisance for damages that exceed \$7,500 and for injunctive relief. As of the date of this complaint, Defendant has unlawfully erected a fence on property of Plaintiff. A representational map showing the location of the aforementioned fence is attached as Exhibit A.
2. This Court has jurisdiction.
3. Venue is proper because the cause of action accrued in Beaufort County and because the Defendant engaged in wrongful acts or omissions which combined to produce a single injury to the land of the Plaintiff.

STATEMENT OF FACTS **Parties**

4. At all times mentioned in this complaint, Plaintiff, Beaufort County, was and still is located at 100 Ribaut Road, Beaufort, South Carolina 29901.
5. At all times mentioned in this complaint, Defendant Timothy A. Summerall is located at 89 Bostick Circle, Beaufort, South Carolina 29902.

6. Beaufort County owns a tract of land that is bordered by Bostick Road in the west (hereinafter the "Bostick Road Right-of-Way") in Beaufort County, South Carolina.

7. The Bostick Road Right-of-Way, a fifty (50) foot right-of-way, was established on July 11, 2011 by cross quit-claim deeds between Plaintiff and Leonard and Melanie William and recorded in Book 2275 at Page 1604 and attached as Exhibit B hereto.

8. Defendant owns an adjacent property lot in the Salem Plantation Subdivision on the eastern side of the Bostick Road Right-of-Way.

9. The Defendant has constructed a fence that crosses through the Bostick Right of Way.

10. Plaintiffs are entitled to exclusive title, possession, and control of the Bostick Road Right-of-Way.

**FOR A FIRST CAUSE OF ACTION
(Trespass)**

11. Paragraphs 1 through 10 are realleged and incorporated herein by reference.

12. Plaintiff is in lawful possession of the lands upon which the fence has been placed by Defendant.

13. The Defendant has intentionally or negligently caused this fence to enter and remain on the land of the Plaintiff.

14. The Plaintiff has not licensed or authorized Defendant to do so.

15. By unlawfully erecting this fence on the land of the Plaintiff, the Defendant has trespassed and encroached upon Plaintiff's land, and wrongfully interfered with and disturbed the rightful possession, use and enjoyment of the Bostick Right of Way by Plaintiff.

16. Plaintiff is entitled to damages for Defendant's trespass and unlawful encroachment upon Plaintiff's land, and for Defendant's wrongful interference with Plaintiff's right to use and enjoy this land.

17. The Defendant is and has been aware that that fence is damaging the land of the Plaintiff.

18. In addition, the Plaintiff has suffered damages and will suffer future damages in excess of \$7,500 for the costs of restoring the Bostick Road Right-of-Way.

**FOR A SECOND CAUSE OF ACTION
(Private Nuisance)**

19. Paragraphs 1 through 18 are realleged and incorporated herein by reference.

20. The Defendant has authorized and constructed a fence on the Bostick Road Right-of-Way which has resulted in invading the interests of the Plaintiff.

21. This invasion has substantially and unreasonably interfered with Plaintiff's use and enjoyment of its property.

22. The Defendant has caused or allowed and are causing or allowing the fence to invade the interests of the Plaintiff.

23. This fence has substantially and unreasonably interfered with Plaintiff's use and enjoyment of its property.

24. The conduct of the Defendant is and was intentional in that he has known that the damage to the Bostick Road Right-of-Way was resulting or was substantially certain to result from that conduct.

25. The conduct of the Defendant in interfering with the Plaintiff's interests was unreasonable and wrongful.

26. The wrongful conduct of the Defendant is the legal cause of the invasion of the rights of the Plaintiff.

27. Plaintiff is entitled to damages for the Defendant's wrongful interference with Plaintiff's right to use and enjoy its properties.

DAMAGES

28. By reason of the Defendant's acts, Plaintiff has suffered the following damages which exceed \$7,500, just compensation and severance damages from the Defendant for the taking of the Bostick Road Right-of-Way, including an award of attorneys' fees and costs.

INJUNCTIVE RELIEF

29. Paragraphs 1 through 28 are realleged and incorporated herein by reference.

30. Plaintiff has no adequate remedy at law for future damage to the Plaintiff's land.

31. Until the damages of the Bostick Road Right-of-Way ceases, the damage to the land of the Plaintiff will continue.

32. The continuing nature of the Defendant's acts would necessitate a separate action by Plaintiff for damages for each act and would subject Plaintiff, Defendant, and this Court to the expense, annoyance, and inconvenience of a multiplicity of suits.

33. For these reasons, the taking of the Bostick Road Right-of-Way lands caused by the Defendant causes irreparable injury to the Plaintiff.

34. Plaintiff is entitled to an injunction prohibiting the Defendant from continuing to engage in practices that invade and damage the land of the Plaintiff.

WHEREFORE, Plaintiff prays for the following relief against Defendant:

- (1) an order finding that the Defendant has encroached upon the Bostick Road Right-of-Way owned by the Plaintiff;

- (2) an order requiring the Defendant to pay damages to the Plaintiff, including attorneys' fees and costs;
- (3) an order enjoining Defendant from entering Plaintiff's property, erecting structures and interfering with Plaintiff's possession, use, and enjoyment of its property;
- (4) trespass damages against Defendant;
- (5) damages for private nuisance against the Defendant;
- (6) an award of Plaintiffs costs in bringing and maintaining this suit; and
- (7) such other and further relief as the Court may deem just, equitable and proper.

DEMAND FOR NON-JURY TRIAL

Plaintiff demands a jury trial as to the amount of just compensation, and as to claims for damages set forth in the complaint.

RESPECTFULLY SUBMITTED this 23rd day of February, 2017.

/s/Patrick J. McDonald
Patrick J. McDonald, Esquire
Resnick & Louis, P.C.
234 Seven Farms Drive, Suite 128
Charleston, SC 29492
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pmcdonald@rlattorneys.com

/s/Christopher L. Murphy
Christopher L. Murphy
Resnick & Louis, P.C.
234 Seven Farms Drive, Suite 128
Charleston, SC 29492
(843) 800-1187
cmurphy@rlattorneys.com

Attorneys for Plaintiff (Beaufort County)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2017-CP-07-00327
	)	
BEAUFORT COUNTY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ANSWER AND COUNTERCLAIM
	)	
TIMOTHY A. SUMMERALL,	)	
	)	
Defendant.	)	
	)	

The Defendant, Timothy A. Summerall, by way of Answer and Counterclaim, would allege that:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint not hereinafter admitted, qualified, or explained is denied.
2. As to the allegations of Paragraph 1 of the Complaint, the Defendant would deny that he has committed any trespass, there is no cause of action for negligence, denies any private nuisance, and there is no cause of action for a public nuisance. The Defendant denies the remaining allegations of Paragraph 1 and would specifically allege that at the time the Complaint was filed, no Exhibit A was attached.
3. The Defendant admits the allegation of Paragraph 2 of the Complaint.
4. As to the allegations of Paragraph 3 of the Complaint, the Defendant would only admit so much thereof as alleges that venue is proper. The remaining allegations of Paragraph 3 are denied.
5. The Defendant admits the allegations of Paragraph 4 of the Complaint.

6. As to the allegation of Paragraph 5 of the Complaint, the Defendant would admit that he lives in Beaufort, South Carolina.

7. The Defendant admits the allegation of Paragraph 6 of the Complaint.

8. As to the allegation of Paragraph 7 of the Complaint, the Defendant would allege that the Bostick Road Right-of-Way was established by plats long in existence prior to the Quitclaim Deeds in July 2011.

9. The Defendant admits the allegation of Paragraph 8 of the Complaint.

10. The Defendant denies the allegation of Paragraph 9 of the Complaint.

11. As to the allegation of Paragraph 10 of the Complaint, the Defendant would admit that the Plaintiff is entitled to exclusive title, possession and control of the Bostick Road Right-of-Way as was established by plats long in existence prior to July 11, 2011.

12. The allegation of Paragraph 11 of the Complaint needs no further response.

13. The Defendant denies the allegations of Paragraphs 12 and 13 of the Complaint.

14. As to the allegation of Paragraph 14 of the Complaint, the Defendant denies that he needs any authorization from the Plaintiff to build a fence on his own property.

15. The Defendant denies the allegations of Paragraphs 15, 16, 17, and 18 of the Complaint.

16. The allegation of Paragraph 19 of the Complaint needs no further response.

17. The Defendant denies the allegations of Paragraphs 20, 21, 22, 23, 24, 25, 26, 27, and 28 of the Complaint.

18. The allegation of Paragraph 29 of the Complaint needs no further response.

19. The Defendant denies the allegations of Paragraphs 30, 31, 32, 33, and 34 of the Complaint.

FOR A SECOND DEFENSE

20. Each and every allegation of the First Defense is realleged as fully as if repeated verbatim herein.

21. The original subdivision plat which set forth the boundaries of the Bostick Road Right-of-Way and the Defendant's lot was recorded in September 1965 in Plat Book 15 at Page 31.

22. All conveyances of the Defendant's lot since that time have referenced this specific original subdivision deed.

23. Thereafter, through a number of survey errors, Beaufort County is now asserting it has ownership rights in the Defendant's property.

24. Survey errors utilized by the Plaintiff cannot effectuate a transfer or a diminishment in size of the Defendant's property.

FOR A THIRD DEFENSE

25. Each and every allegation of the First through Second Defenses is realleged as fully as if repeated verbatim herein.

26. The Defendant and his predecessors in title have held title since 1969.

27. The Plaintiff's Complaint must fail by virtue of adverse possession.

FOR A FOURTH DEFENSE AND BY WAY OF COUNTERCLAIM

28. Each and every allegation of the First through Third Defenses is realleged as fully as if repeated verbatim herein.

29. The Defendant is informed and believes that his fence is properly located entirely on his property and the Defendant does not have any improvements in the Bostock Road Right-of-Way.

30. The Defendant believes that he is entitled to an Order quieting the title and determining his proper boundaries.

31. The Defendant is further informed and believes he is entitled to his reasonable attorneys' fees and costs associates with this matter.

WHEREFORE, having fully answered the Complaint, the Defendant prays that the same be dismissed with prejudice, that he be given the relief sought in his Counterclaim, including reasonable attorneys' fees and costs, and for such other and further relief as is just and proper.

FINGER, MELNICK & BROOKS, P.A.

s/Terry A. Finger

Terry A. Finger

S.C. Bar No.: 2012

Attorney for the Defendant

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P. O. Box 24005

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Hilton Head Island, South Carolina
May 17, 2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	C/A NO.: 2017-CP-07-00327

Beaufort County,	)	
	)	
Plaintiff,	)	PLAINTIFF'S
	)	ANSWER TO
vs.	)	DEFENDANT'S
	)	COUNTERCLAIM
Timothy A. Summerall,	)	
	)	
Defendant.	)	
_____	)	

Plaintiff, Beaufort County, answers the Defendant, Timothy A. Summerall's Counterclaim and alleges:

1. Each and every allegation contained in the original Complaint is realleged fully as if repeated verbatim herein.

2. Paragraphs 1 – 28 do not contain any allegations requiring a response from the Plaintiff.

FOR A FIRST DEFENSE AS TO THE COUNTERCLAIM

3. Plaintiff denies the allegations contained in Paragraphs 29 – 31 and demands strict proof thereof.

FOR A SECOND DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE
(12(b)(6) Failure to State a Claim)

4. Beaufort County would show the Defendant, Timothy A. Summerall has failed to state facts sufficient to constitute a cause of action; therefore, Defendant's cross-claims should be dismissed pursuant to Rule 12(b)(6) of the South Carolina rules of Civil Procedure.

FOR A THIRD DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE

(Ownership of the Property)

5. Beaufort County, in addition to having outright ownership of the property pursuant to public records, the County also reserves the right to invoke ownership of the property pursuant to the doctrine of adverse possession and for implied dedication.

RESNICK & LOUIS, P.C.

/s/Patrick J. McDonald
Patrick J. McDonald, Esquire
Resnick & Louis, P.C.
234 Seven Farms Drive, Suite 128
Charleston, SC 29492
(843) 270-0675
pmcdonald@rlattorneys.com

Attorney for Plaintiff (Beaufort County)

Charleston, South Carolina

Dated: June 6, 2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	C/A NO.: 2017-CP-07-00327
	)	
Beaufort County,	)	
	)	
Plaintiff,	)	BEAUFORT COUNTY'S
	)	MOTION TO RECONSIDER
vs.	)	
	)	
Timothy A. Summerall,	)	
	)	
Defendant.	)	
	)	

Beaufort County received the Master's Order denying its Motion for Summary Judgement in the above referenced matter on June 19, 2019 and moves the court to address and/or reconsider its ruling pursuant to SCRCP 59(e) on the following grounds:

1. The only issue before the court involved the property line on the western side of Bostick Road and Summerall's property (identified as Lot 1).
2. The parties to the action included Beaufort County which owned the right of way West of the property line (referred to as Bostick Road) and Mr. Summerall who owned the property East of the property line, (referred to as Lot 1).
3. In 2011, Beaufort County owned the right of way West of the property line (referred to as Bostick Road) and Leonard A. Williams and Melanie N. Williams owned the property East of the property line, (referred to as Lot 1).
4. In 2011, Beaufort County, Leonard A. Williams and Melanie N. Williams were the owners on either side of the property line between Bostick Road and Lot 1 and were entitled to agree to change the location of the line regardless of any prior plats, agreements or deeds.
5. In 2011, Beaufort County and Leonard A. Williams and Melanie N. Williams exchanged quitclaim deeds which addressed the location of the property line between Bostick Road and Lot 1.

6. The Master did not identify what property was exchanged in the 2011 quitclaim deeds between the County and Leonard A. Williams and Melanie N. Williams, nor did the Master address the intent behind the exchange of the quitclaim deeds.

7. The Master did not make any ruling on, nor did the Master address the parties' intent of the 2011 quitclaim deeds.

8. The Master improperly relied on David Youman who gave an opinion on the land transferred on the 2011 Quitclaim Deed where the County transferred property to Leonard A. Williams and Melanie N. Williams, but who could not understand what property Leonard A. Williams and Melanie N. Williams gave to the County in 2011.

9. The Master failed to address how Mr. Summerall transferred the property to Ray Williams and back again for the sole purpose of introducing David Youmans' plat into the chain of title.

RESNICK & LOUIS, P.C.

s/Christopher L. Murphy
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Email: cmurphy@rlattorneys.com
Attorney for Condemnor (County of Beaufort)

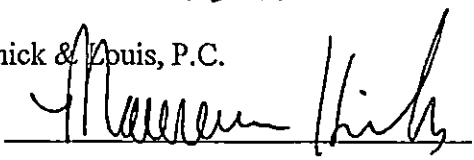
June 26, 2019

Charleston, South Carolina

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing pleading has been served upon opposing party by mailing a copy properly addressed with sufficient postage affixed thereto this 26 day of June 2019.

Resnick & Louis, P.C.

BY: 

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	C/A NO.: 2017-CP-07-00327
	)	
Beaufort County,	)	
	)	
Plaintiff,	)	BEAUFORT COUNTY'S
	)	MEMORANDUM IN
vs.	)	SUPPORT OF ITS MOTION
	)	TO RECONSIDER
Timothy A. Summerall,	)	
	)	
Defendant.	)	
	)	

PLEASE TAKE NOTICE, pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, Plaintiff Beaufort County ("Beaufort County") hereby submits this Motion for Reconsideration of the Court's Final order dated and entered on June 19, 2019 (the "Order") and the memorandum in support of the Motion. Beaufort County seeks for the Court to reconsider its findings and correct errors based on the record and the law.

STATEMENT OF THE CASE

This matter involves a boundary line dispute. Specifically, the parties sought to establish the location of the property line on the western side of Bostick Road and the adjacent property lot on the eastern side of Bostick Road which is located in the Salem Plantation Subdivision and owned by Defendant Timothy Summerall (previously identified as Lot 1).

Beaufort County filed this lawsuit February 23, 2017 against Mr. Summerall as the adjacent landowner. Mr. Summerall filed Answer on May 23, 2017 asserting a counter claim against Beaufort County. Beaufort County filed their response to Mr. Summerall's Counter Claim on June 6, 2017. Beaufort County filed a Motion for Summary Judgment on October 17, 2017. The Motion was subsequently denied on November 20, 2018.

The Honorable Marvin H. Dukes, presided over the matter on March 26, 2019 and filed an order ending the case on June 19, 2019. Beaufort County now seeks reconsideration of the Court's findings and asks for appropriate alterations of the Order.

LEGAL STANDARD

Rule 59(e), SCRCP, is substantially similar to Rule 59(e), FRCP and the United States Supreme Court has explicitly described a Rule 59(e), FRCP as a motion which "involves reconsideration of matters properly encompassed in a decision on the merits" Elam v. S.C. Dep't of Transp., 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004). While Rule 59(e), FRCP governs motions to alter or amend a judgment, the Rule does not provide a standard under which a district court may grant such a motion. The Fourth Circuit has articulated "three grounds for amending an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998)

"A party may wish to file such a motion when (s)he believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." Elam, 361 S.C. at 21, 602 S.E.2d at 778. In accordance with this principle, the court in Elam said that parties would usually be allowed to request that the court reconsider its decision even if that meant rehashing all or part of an argument that had previously been presented. *See id.*; *see also Arnold v. State*, 309 S.C. 157, 172-73, 420 S.E.2d 834, 842 (1992) (stating that the purpose of a Rule 59(e) motion is allow the judge an opportunity to reconsider issues and arguments.... properly encompassed in a decision on the merits").

STATEMENT OF FACTS

The basis of the dispute between Beaufort County and Mr. Summerall was the uncertainty of the east-west boundary line between their parcels of land. The history of this boundary dates back to 1965 and by all accounts was incorrect from its creation. The subject property was originally platted as Lot 1 of Phase I of the Salem Plantation Subdivision back in 1965. **(Beaufort County Trial Exhibit A - 1965 Plat from H.F. Wilson)**. In 1966, Phase II of the subdivision was platted for Paul and Marjorie Trask. **(Beaufort County Trial Exhibit B - 1966 Plat from Roy Hussey)**. The original property lines plats which I refer to as the 'development lines' simply did not match up with the plats. In 2011, the Williams family owned Lot 1 and noticed this error. The Williams and the County (who owner the road) attempted to correct this error by exchanging quitclaim deeds.

In 2005, Beaufort County accepted Bostick Road into its road system when Paul and Marjorie Trask deeded over a 60 foot right of way to the county. **(Beaufort County Trial Exhibit C - deed from Trask to County)**. This deed gave the County ownership in the Bostick Road which fell on one side of the disputed property line. It was also in 2005 that David Gasque prepared a plat of the property which showed the areas in question. **(Beaufort County Trial Exhibit D - Gasque 2005 plat)**. As the court can see, the plat lists .02 acres off Bostick Road and .07 acres as "areas of confusion." In addition, the plat marks L1 as 13.38 foot which should be 3.38 feet and L2 as 10 feet.

In 2011, Leonard and Melanie Williams owned the property and discovered an error with the Phase I and Phase II plats as applied to Lot 1. The error surfaced when the Williams started the process of refinancing the loan on the Lot in order to build a home on their property. **(Trial Transcript – 82:15-23)**. In order to obtain the financing and clean up the title issues, Melanie and Leonard Williams exchanged quitclaim deeds with Beaufort County to establish a 50' right

of way for Bostick Road and to alter the location of the property line in order to allow it to match up with the property lines across the street. (**Trial Transcript – 34:24-35:4; 71:8-14; 82:24-83:8**).

In the first deed filed July 28, 2011, Leonard and Melanie Williams deeded the County an area not to exceed 3.38 feet. (**Beaufort County Trial Exhibit E - quitclaim deed to County**). This deed references the 2005 Gasque plat. In August 26, 2014, the County deeded Leonard and Melanie Williams 10 feet of Bostick Road which established a 50 foot right of way. (**Beaufort County Trial Exhibit F - quitclaim deed to Leonard and Melanie Williams**). The deed also referenced the 2005 Gasque plat.

While the quitclaim deeds are not ideal and may be confusing, the intent of the parties is not in dispute. The intent of the 2011 quitclaim deeds was to fix the problems with the Phase I and Phase II Plats of the property. In 2012, David Gasque prepared another plat that clearly shows the exchanged property. (**Beaufort County Trial Exhibit G - Gasque 2012 plat**). The Court can see L2 which references the 3.38 foot triangle the Williams deeded to the county in July of 2011. The plat also shows L1 which marks the 10 feet the county deeded to the Williams in August of 2011.

In February of 2014, Mr. Summerall purchased the property for \$95,000.00 from Leonard and Melanie Williams. After purchasing the property, Mr. Summerall and his closing attorney, Ray Williams simultaneously exchanged warranty deeds on the property. (**Beaufort County Trial Exhibit K and L - additional 2014 deeds**). The warranty deeds reference both the 1956 Plat by H.F. Wilson and the 2014 Plat from David Youmans, but they ignore all other deeds in the chain of title. The sole purpose of this 2014 deed exchange was to get David Youmans' survey into the chain of title of Mr. Summerall's property. (**Trial Transcript – 151:6-23**).

Following the trial of the case, the Court ruled that the 'Youmans line' applied, which is shown in Defendant's Exhibit 1M. (Summerall Trial Exhibit 1M).

In September 14, 2016, David Gasque prepared a plat which shows the lines of all the deeds filed in this case. (**Beaufort County Trial Exhibit M - 2016 Gasque plat**). The plat demonstrates the right of way lines using the David Youmans' plat in orange and the right of way lines if the 2011 quitclaim deeds are considered in yellow. As the Court can see, the 'Youmans' line' severs a building on Lot 15 of Phase II and currently leaves the county with a 19.71 foot right of way at the end of Bostick Road. (**Beaufort County Trial Exhibit M - 2016 Gasque plat**).

ARGUMENT

The sole issue in this case was the determination of the location of the property line on the western side of Bostick Road and Summerall's property, Lot 1. The parties presented evidence of three possible locations of this property line in this matter:

The first possible location, which I refer to as the 'development line' was formed back when the subdivision was created. This line is marked on Defendant's Exhibit 1M labeled "line per Plat by David S. Youmans...". (**Summerall Trial Exhibit 1M**).

The second possible location, which I refer to as the 'quit claim line' was created in 2011 when Beaufort County and the owners of Lot 1 exchanged quitclaim deeds. This line is marked on Defendant's Exhibit 1M labeled "LINE AS AGREED TO BY BOOK 03080...". (Summerall Trial Exhibit 1M). This is the line that Beaufort County argues is the proper line.

The third possible location, which I refer to as the 'Youmans' line,' is a hybrid of the 'development line' and only consideration of *one* of the 2011 quitclaim deeds (emphasis added). This line is marked on Defendant's Exhibit 1M labeled "line per Plat by David S. Youmans Additional 10' Being Quitclaimed." (**Summerall Trial Exhibit 1M**). This is the line the Court chose to establish at the trial of this case. (Final Order ¶ 18).

The Order fails to consider the entirety of the chain of title of the property in question and the intent behind each transfer in ownership of the property. Beaufort County therefore respectfully requests that this Court reconsider each of the points raised herein regarding the nature of this dispute, the procedural history, the evidence presented, the relevant facts, the applicable legal analysis, and the proper relief.

1. The Court Failed to Recognize the Property Exchanged in the 2011 Quitclaim Deeds.

- a. In 2011, Beaufort County and the Williams owned property on each side of the disputed property line and were free to agree to move it as they saw fit.**

The only relevant facts in this boundary dispute involves the property exchanged between Beaufort County and the Williams in the 2011 quitclaim deeds. In short, did the quit claim deeds alter the location of the ‘development line’?

At the time of the 2011 exchange, Beaufort County clearly owned the property on the westside of the property line, referred to as Bostick Road, and the Williams owned the property on the eastside of the property line, referred to as Lot 1. (**Beaufort County Trial Exhibit C - deed from Trask to County**). As such, the parties were free to agree to move the property line anywhere they wanted.¹

The exchange of property in the 2011 quitclaim deeds was done for the sole purpose of correcting prior boundary line uncertainties. (Trial Transcript – 8:5-14; 34:24-35:4; 71:8-14; 82:15-23).

¹ Mr. Summerall conceded to this point. (Trial Transcript – 147:25-148:3.)

The general rule is well established in this State that when determining the location of a line in dispute, artificial marks control courses and distances. *See Connor v. Johnson*, 59 S.C. 115, 37 S.E. 240. Established corners and marked lines represent the survey as it was actually made, while courses and distances are merely descriptions of the acts done by the surveyors. Plats are made up from loose memoranda made in the field. *See Klapman v. Hook*, 206 S.C. 51, 32 S.E.2d 882, 883 (S.C. 1945).

According to the leading case on the subject, *Fulwood v. Graham*: "In locating lands, the following rules are resorted to, and generally in the order stated; (1) Natural boundaries; (2) Artificial marks; (3) Adjacent boundaries; (4) Course and distance. Neither rule, however, occupies an inflexible position, for when it is plain that there is a mistake, an inferior means of location may control a higher." 30 S.C. L. 491, 1 Rich. 491.

In *Sturgeon v. Floyd*, the Court stated the rule as follows:

"Mere distance is never regarded when it conflicts with either the actual marks made by the surveyor or the well-ascertained marks called for on the plat. The trees that the surveyor marked; the rocks that he set up; the fixed and permanent objects which he calls for, are more certain indications of intention than distances or even courses."
3 Rich. 80.

"Where a deed describes land as it is shown on a certain plat, such plat becomes part of the deed for the purpose of showing the boundaries, metes, courses[,] and distances of the property conveyed." *Hobonny Club, Inc. v. McEachern*, 272 S.C. 392, 397, 252 S.E.2d 133, 136 (1979). The Court in *Klapman* stated:

"In locating land upon the ground from the calls and descriptions in the map, plat, the same primary rules apply as exist in the locating of calls and descriptions in a deed containing no such reference; that is, the various calls are given the same order of preference. Thus, where the lines have in fact been located and designated by monuments and there is a discrepancy between the calls for these monuments and courses and distances shown by a plan referred to in the conveyance, the normal rule as to the controlling effect of calls for monuments will be followed."

206 S.C. at 55, 32 S.E.2d at 883 (*citing* 8 Am. Jur., 791).

Beaufort County recognizes the above rulings and also recognizes that South Carolina courts also acknowledge that the rules for determining disputed boundaries “are not inflexible and are subject to modification depending upon the particular facts of each case.” Klapman, 206 S.C.at 56, 32 S.E.2d at 884. Determining the grantor’s intention is the primary purpose for which rules determining boundaries exist, and all such rules yield to such intention when discovered because “[t]he vital question is the intent of the grantor at the time the deed is executed.” Id. (*emphasis added*) (*citing* Ouzts v. McKnight, 114 S.C. 303, 103 S.E. 561 (1920)). In Ouzts, it was undisputed that both parties to the deed intended an equal division of a tract containing 1,000 acres and in undertaking to accomplish this purpose, the surveyor made a mistake in running the line on the ground, giving one party 425 acres and the other 575 acres, thus it was held that the line run on the ground did not represent the mutual intention of the parties.

Mr. David Youmans testified as an expert for the Defendant in this trial of this case after he was asked by Mr. Summerall to survey his property. According to his testimony he conducted an extensive review of the records in his file that pertained to Lot 1. (Trial Transcript –119:25-120:3). The general posture of his testimony was resorting to the rule that the distance shown on a plat is of lesser importance in locating the land than is the boundary, which is of course true; but as South Carolina recognizes, that is not an inflexible rule.

Additionally, Mr. Youmans was able to acknowledge the existence of the 10 feet acquired by the Williams from Beaufort County and the 50 foot right-of-way acquired by Beaufort County from the Williams in the 2011 quitclaim deeds. (Trial Transcript –123:13-124:4). From Mr. Youmans’ testimony:

Q. Okay. And in those deeds there was clearly establishing a 50 foot right-of-way -- an intent for a 50 foot right-of-way?

A. That's correct.

(Trial Transcript – 134:2-5.)

However, Mr. Youman's did not recognize the intent of either party in the quit claim exchanges between the County and Williams. Thus, a determination of the location of the boundary line in dispute depends in large measure on, (1) where the Williams intended the boundary line to be when they deeded the property to Beaufort County in 2011 and (2) where Beaufort County intended the boundary line to be when it deeded the property to the Williams in 2011. The only relevant parties executed 2011 quitclaim deeds, which again, were executed for the sole purpose of clarifying the previously uncertain boundary line.

In this case, the Court:

1. Failed to recognize the intent of the two property owners involved in the 2011 quitclaim deed exchange, and therefore, the property exchange;
2. The Court also failed to recognize these parties' rights to relocate their property line by agreement; and
3. The Court failed to give any weight or consideration to the 2011 quitclaim deeds or the intent of the parties to alter the location of the property line in the execution of these deeds.

As a practical matter, any evidence regarding the location of the property line prior to 2011 is relevant only to show the prior errors and recognize the necessity to fix the problem.

- b. **In 2011, Beaufort County and the Williams exchanged quitclaim deeds which altered the property line between Bostick Road and Lot 1.**

Clearly, Beaufort County and the Williams intended to convey some property to each other when they executed and filed the 2011 quitclaim deeds.

"One of the first canons of construction of a deed is that the intention of the grantor must be ascertained and effectuated if no settled rule of law is contravened." Bennett v. Investors Title Ins. Co., 370 S.C. 578, 590, 635 S.E.2d 649, 655 (Ct. App. 2006). "[O]nce a contract or agreement is before the court for interpretation, the main concern of the court is to give effect to the intention of the parties." Williams v. Teran, Inc., 266 S.C. 55, 59, 221 S.E.2d 526, 528 (1976). "Moreover, in ascertaining [the grantor's] intention, the deed must be construed as a whole and effect given to every part thereof, if such can be done consistently with law." Bennett, 370 S.C. at 590, 635 S.E.2d at 655. "As a general rule, when maps, plats, or field notes are referred to in a grant or conveyance, they are to be regarded as incorporated into the instrument and are usually held to furnish the true description of the boundaries of land." Hammond v. Lindsay, 277 S.C. 182, 184, 284 S.E.2d 581, 582 (1981).

When a deed is unambiguous, any attempt to determine the grantor's intent must be limited to the deed itself and using extrinsic evidence to contradict the plain language of the deed is improper. See Springob v. Farrar, 334 S.C. 585, 590, 514 S.E.2d 135, 138 (Ct. App. 1999). The terms of an unambiguous deed may not be varied or contradicted by evidence drawn from sources other than the deed itself. See Smith v. DuRant, 236 S.C. 80, 113 S.E.2d 349 (1960). Instead, when intention is not expressed accurately in the deed evidence *aliunde* may be admitted to supply or explain it. Thus the deed is not varied or contradicted but is explained or corrected. See id.; see also Scott v. Scott, 216 S.C. 280, 293, 57 S.E.2d 470, 476 (1950) ("One of the most valuable safeguards thrown around a deed is that parol evidence is not admissible to vary or contradict the terms of a written contract, and this applies in all its strictness to actions involving deeds."); see also Walters v. Summey Bldg. Systems, Inc., 311 S.C. 507, 509, 429 S.E.2d 854, 856 (Ct. App. 1993) ("The construction of an unambiguous deed is a question of

law, not fact. The terms of such a deed may not be varied or contradicted by evidence drawn from sources other than the deed itself."), *cert. denied* (February 17, 1994). Only "[w]hen the agreement is ambiguous, the court may take into consideration the circumstances surrounding its execution in determining the intent." Williams, 266 S.C. at 59, 221 S.E.2d at 528. Additionally, this Court has held that when multiple documents are executed contemporaneously in the course of and as a part of the same transaction, the Court may consider and construe the instruments together in order to ascertain the intention of the parties and the terms of the agreement. *See Café Associates, Ltd. v. Gerngross*, 305 S.C. 6, 10, 406 S.E.2d 162, 164 (1991).

In this case, the Court applied a partial finding of 10' which was referenced in one of the quitclaim deeds but failed to consider any conveyance of property referenced in the second quitclaim deed, and instead applied the "Youmans' line". Simply put, the Court failed to recognize the intent of the parties regarding the 2011 quitclaim deeds and specifically, the second quitclaim deed. (**Beaufort County Trial Exhibit E - quitclaim deed to County**).

At the trial of this case, Beaufort County presented four witnesses to testify about the intent of the parties when executing the 2011 quitclaim deeds and the literal interpretation of the quitclaim deeds when looking through the chain of title and the actual property exchanged reading the property descriptions in the deeds.

An expert witness for Beaufort County, surveyor David Gasque, was involved with the property that is the subject of this lawsuit as early as 2005, when he surveyed the property and first noted the areas of confusion. (**Beaufort County Trial Exhibit D - Gasque 2005 plat**). Mr. Gasque was also involved with the property during the 2011 Quitclaim deed exchange between Beaufort County and the Williams in order to clear up the areas of confusion. Specifically, he testified that "the purpose of [his] plat was to clean the whole process up." (**Trial**

Transcript – 32:19-20). (Beaufort County Trial Exhibit G - Gasque 2012 plat). Mr. Gasque added: “And the whole purpose was this, in our conversations, was to make sure we cleared the buildings and have a clear-cut 50 foot right-of-way for purposes of ingress/egress.” (**Trial Transcript – 33:21-24**).

Additionally, Mr. Gasque, prepared one of Defendant’s trial exhibits, Summerall Trial Exhibit 1M. His survey recognizes the line running N19’25’37 and labeled “LINE AS AGREED TO BY BK 0380 PGS 0655-0657...” This would be the location of the ‘quitclaim line’ as agreed to by the 2011 exchange of deeds. (**Trial Transcript – 27:12-21**). In addition, Mr. Gasque showed the 50’ distance from the ‘quitclaim line’ to the other side of Bostick Road. (**Trial Transcript – 33:4-7**). Finally, Mr. Gasque testified that the ‘quitclaim line’ was “almost a creation [of the property line] because we’re having to get a property line agreement between the Williams and the County. So - - and this is what they agreed to.” (**Trial Transcript – 83:5-8**). As the Court can see, by applying the ‘quitclaim line’ per the 2011 quitclaim deeds, Bostick Road becomes 50’ wide and lines up with the property and structures on the other side of Bostick Road, rather than through a building if the Court applies the “Youmans’ line”.

The second expert for Beaufort County, Zyad “Sam” Khalil, surveyed the property lines recognizing all of the deeds. Defendant’s Trial Exhibit 2 summarizes his findings in the form of a plat. (Summerall Trial Exhibit 2.) Mr. Khalil recognized the subject property and showed two property lines on his plat. The first property line was drawn according to Plat Book 138/61 and runs S12’48’29’. (**Trial Transcript – 88:25:89-2; 89:19-24**). The second property line is drawn according to 2011 quitclaim deeds and Deed Book 3080/655 and Plat Book 134/115 and runs N19’26’33. (**Trial Transcript – 89:5-12**), (Summerall Trial Exhibit 2).

No one disputes the erroneous location of the first property line. The issue in this case is the location of the property line pursuant to the 2011 quitclaim deeds which Mr. Khalil clearly marked on this exhibit. In order to determine the location of the line, Mr. Khalil applied the language in the 2011 quitclaim deeds. The 2011 quitclaim deeds altered the location of the property line and established a new location. Looking at the exhibit, the 'quitclaim line' runs parallel with the line on the other side of Bostick Road. (**Summerall Trial Exhibit 2**).

Finally, Vick Gault testified in the trial of this case as an expert title abstractor. In conducting her title search, she went back through forty years of public records related to the property in order to establish the full chain of title. (Trial Transcript – 100:1-2). From Mrs. Gault's testimony:

Q. And what did the - - did you find in the public records?

A. The public records told me that the quit claim deeds from Williams to the County and the County to Williams established a 50-foot boundary line for the Bostick Road leaving the remainder to the owner of Lot 1, which was Williams.

Q. All right. And when you talk about those quit claim deeds, those are the 2011 quit claim deeds?

A. Correct.

Q. All right. Now, you were here for David Gasque's testimony?

A. Uh-huh.

Q. And you got to say yes.

A. Yes.

Q. And he talked about certain lines as to Bostick Road, correct?

A. Yes.

Q. And he also talked about some triangles that were deeded from the County to Melanie Williams and Leonard Williams?

A. Yes.

Q. And do the public records -- did you find that to be consistent with the public records?

A. I did.

Q. All right. And is there anything that Mr. Gasque said that differed from the public records that you found?

A. No.

(Trial Transcript – 100:25-102:4).

Thus, according to her testimony, Mrs. Gault was in agreement with the opinions of Mr. Gasque, as well as the public records and chain of title of the property, which explained that the 2011 quitclaim deeds from the Williams to Beaufort County and from Beaufort County to the Williams, established a 50' boundary line for the Bostick Road leaving the remainder to the owner of Lot 1, which at the time was the Williams.

c. The Court failed to recognize or address the intent of the parties to the 2011 quitclaim deeds.

Admittedly, the 2011 quitclaim deeds are not ideal and require extrinsic evidence and expert analysis. However, the Court must also look to the intent of the parties to the 2011 quitclaim deeds. This means the Court must consider the intent of both Beaufort County and the Williams as to the placement of the property line back in 2011 when the quitclaim deeds were executed.

In construing a deed, the intention of the grantor must be ascertained and effectuated unless that intention contravenes some well-settled rule of law or public policy. *See Wayburn v. Smith*, 270 S.C. 38, 239 S.E.2d 890 (1977). The court in *Hunt v. S.C. Forestry Commission*, set forth the following standard of review relating to the construction of deeds:

"To construe a deed, a court looks first at the language of the instrument because the court presumes it declares the intent of the parties. When, and only when, the meaning of a deed is not clear, or is ambiguous or uncertain, will a court resort to established rules of construction to aid in the ascertainment of the grantor's intention by artificial means where such intention cannot otherwise be ascertained."

358 S.C. 564, 569, 595 S.E.2d 846, 848 (Ct. App. 2004).

"If the language of the deed is unambiguous, then its interpretation is a question of law to be resolved by the reviewing court without resort to extrinsic evidence." *Id.* While a trial court's findings of fact in a nonjury action at law should not be disturbed on appeal unless they are without evidentiary support, a reviewing court is free to decide questions of law with no particular deference to the trial court. *See Okatie River, L.L.C. v. Southeastern Site Prep, L.L.C.*, 353 S.C. 327, 334, 577 S.E.2d 468, 472 (2003) ("In an action at law, tried without a jury, the appellate court standard of review extends only to the correction of errors of law.");

To determine the grantor's intention, we must construe it in accordance with the rules applied to deeds and other written instruments. *See K & A Acquisition Grp., LLC v. Island Pointe, LLC*, 383 S.C. 563, 581, 682 S.E.2d 252, 262 (2009). In determining the grantor's intent, the deed must be construed as a whole and effect given to every part if it can be done consistently with the law. *Id.* The intention of the grantor must be found within the four corners of the deed. (*See Gardner v. Mozingo*, 293 S.C. 23, 25, 358 S.E.2d 390, 391-92 (1987) *citing Sims v. Clayton*, 193 S.C. 98, 7 S.E.2d 724 (1940)).

Further, "[i]f this [c]ourt decides that the language in a deed is ambiguous, the determination of the grantor's intent then becomes a question of fact" and evidence may be admitted to show the intent of the parties. Santoro v. Schulthess, 384 S.C. 250, 272, 681 S.E.2d 897, 908 (Ct. App. 2009); *see also* S.C. Dep't of Nat. Res. v. Town of McClellanville, 345 S.C. 617, 623, 550 S.E.2d 299, 303 (2001) (applying the rules of contract construction to a restrictive covenant in a deed and stating "[a] contract is ambiguous when the terms of the contract are reasonably susceptible of more than one interpretation. It is a question of law for the court whether the language of a contract is ambiguous. Once the court decides the language is ambiguous, evidence may be admitted to show the intent of the parties. The determination of the parties' intent is then a question of fact.")

Attorney Josh Gruber represented Beaufort County back in 2011 and testified at the trial. Mr. Gruber testified that he was the County Attorney for Beaufort County, involved in the execution of the 2011 quitclaim deeds and the exchange of property between the Williams and Beaufort County. Mr. Gruber explained:

So we undertook to prepare these quit claim deeds to basically do a cross exchange of property with Beaufort County providing some land to the landowners. The landowners providing some land to Beaufort County in an effort to resolve the areas of confusion and what would ultimately result in a 50 foot right-of-way accessing the parcel back behind this area which would have been the minimum requirement necessary for a subdivision development at the time.

(Trial Transcript – 8:5-14).

During cross-examination, Mr. Gruber confirmed on different occasions that the sole purpose of the 2011 quit claims deeds. He stated: "...the ultimate goal with this transfer was to result in a 50 foot right-of-way between the two parcels on either side." **(Trial Transcript –**

13:2-4). He added: "I think the intent by executing these quit claim deeds was to resolve any confusion that was on the plat in question." (Trial Transcript – 17:8-10).

In his cross examinations, Mr. Gasque also testified that following the execution of the 2011 quitclaim deeds, he was instructed to create a plat that reflected the quitclaim deeds and therefore remove the areas of confusion and show the Bostick Road 50' right of way to Beaufort County. (Trial Transcript – 69:5-14).

Defendant, Mr. Timothy Summerall, testified in his individual capacity as the owner of Lot 1 as well as an expert surveyor in the trial of this case. In his testimony, he agreed that in construing a deed, the number one and most controlling issue to consider, is the intent of the parties to the deed. (Trial Transcript – 147:20-24). Additionally, Mr. Summerall, himself also acknowledged that the intent of the 2011 quitclaim deeds was to put the uncertainties of the property line to rest. From Mr. Summerall's testimony:

Q. All right. Now, you also -- let me ask you this. In these lines, did you -- well, you would concede that those 2011 quit claim deeds fall within the chain of title as to this property?

A. Yes.

Q. All right. And you haven't done any action to set aside those quit claim deeds, have you?

A. I have not.

Q. And your testimony was that you did not understand the quit claim deeds, I believe; is that correct?

A. I understand the intent of them, but the actual -- -- conveyed is not at all clear.

Q. Well, tell me what was the intent of them. What do you think the intent was?

A. The intent was to put the uncertainties that Mr. Gasque had pointed out to rest.
(Trial Transcript – 149:5-25).

Applying the aforementioned established rules of interpreting deeds, coupled with the relevant testimony, we believe that the property exchanged by the Williams and Beaufort County through the execution of the 2011 quitclaim deeds was intended to grant a 50 foot right-of-way to Beaufort County and establish the property 'quitclaim line' as indicted by the deeds and testimony of Gasque, Khalil and Vicki Gault .

The intent of the parties is not in dispute. All testimony of record evidences that it was the parties' intent to establish the line referred to as the 'quitclaim line'. The Court ignored all testimony as to the intent which violates the law of South Carolina, thus his findings should be reversed.

CONCLUSION

This Motion is made in accordance with the South Carolina Rules of Civil Procedure and supported by the pleadings, the exhibits, those facts, arguments, and law raised at the trial of this case as well as those facts, arguments, and law raised at any hearing on this Motion. Thus, Beaufort County's Motion for Reconsideration should be granted.

Respectfully submitted by

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October 3, 2019
Charleston, South Carolina

1
2 State of South Carolina) Court of Common Pleas
3 County of Beaufort) 14th Judicial Circuit
4) No.: 2017-CP-07-00327

5 Beaufort County,)

6 Plaintiff,)

7 vs.)

8 Timothy A. Summerall,)

9 Defendant(s),)
10

HEARING

March 26th, 2019

11 Hearing reported by Deborah S. Thomas,
12 Certified Verbatim Reporter and Notary Public in and
13 for the State of South Carolina; said hearing held
14 before Honorable Marvin H. Dukes, III, Beaufort
15 County Master in Equity and Special Circuit Court
16 Judge in accordance with the South Carolina Rules of
17 Civil Procedure, at the Beaufort County Courthouse,
18 102 Ribaut Road, Room 212, Beaufort, South Carolina
19 on March 26th, 2019, at the hour of 9:01 a.m.

20
21 DEBORAH S. THOMAS, CVRM
22 156 Argent Way
23 Bluffton, South Carolina 29909
24 (803) 206-7390
25

COPY

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* * * * *

1 This hearing is conducted in
2 accordance with the South Carolina Rules of Civil
3 Procedure.

4 JUDGE DUKES: Good morning. We're
5 here in Beaufort County versus Summerall. This is
6 Case 2017-CP-07-00327. This matter comes to me for
7 a final trial today pursuant to an order of
8 reference heretofore filed March 6th, 2018.

9 And I had a brief off the record pretrial
10 conference with counsel. And my understanding is
11 they have done that thing that all judges love.
12 They have gotten together ahead of time and worked
13 out trial exhibits that have various things
14 premarked. So that will certainly help us along.

15 My understating also from council is that
16 they have exhausted all efforts to settle this
17 matter. And I appreciate the efforts. Certainly
18 not all things can be settled. Otherwise, I would
19 be out of a job. So, I guess, thank you for that.

20 And -- but we'll go ahead and take
21 testimony. And, of course, there's always the
22 opportunity to continue settlement talks if
23 appropriate while this matter is pending. Right up
24 until and, I guess, conceivably even after I would
25 issue whatever order I would issue in this case.

1 So, Mr. Murphy, I guess you're going to be
2 doing it for the County; is that correct?

3 MR. MURPHY: That's correct, Your
4 Honor.

5 JUDGE DUKES: And I'm happy to hear
6 from you, sir:

7 MR. MURPHY: Thank you. We're going
8 to call Josh Gruber as our first witness.

9 JUDGE DUKES: All right. We'll
10 launch right in with the witnesses. And as you all.
11 recall, I've already heard a little bit of this.
12 So, thank you for -- I don't really need any
13 openings.

14 But Mr. Gruber do you swear or affirm to
15 tell the truth, the whole truth, and nothing but the
16 truth so help you God?

17 THE WITNESS: I do.

18 JUDGE DUKES: Can you state your
19 whole name for the record, please.

20 THE WITNESS: Joshua Andrew Gruber.

21 DIRECT EXAMINATION

22 BY MR. MURPHY:

23 Q. All right. Mr. Gruber, could you tell the
24 Judge where you're currently employed?

25 A. I'm currently the assistant town manager

1 for the Town of Hilton Head Island.

2 Q. Okay. And back in 2011, what was your
3 position?

4 A. As of May 2011, I would have been the
5 County Attorney for Beaufort County.

6 Q. All right. And you're familiar with the
7 property that we're talking about in the Salem
8 Pointe Subdivision?

9 A. I am.

10 Q. All right. And I'm going to hand you two
11 deeds that are marked as Exhibits E and F. Do you
12 recognize those deeds?

13 A. I do.

14 Q. And can you tell the Judge how those deeds
15 came about and kind of what happened, the background
16 of those deeds?

17 A. From what I recall, there is a large piece
18 of property that's back behind this particular area
19 in question. And I don't know if they had come in
20 for some kind of development approval or some other
21 kind of issue. But, through that action, we got
22 focused on this, quote/unquote, area of conflict
23 with on certain plats regarding Bostick Road.

24 It was my understanding that when it was
25 originally platted, it was platted as a 60 foot

1 right-of-way. But because of encroachments or
2 otherwise, there were certain portions of the plats
3 that were showing as questionable as to where they
4 were located.

5 So we undertook to prepare these quit
6 claim deeds to basically do a cross exchange of
7 property with Beaufort County providing some land to
8 the landowners. The landowners providing some land
9 to Beaufort County in an effort to resolve the areas
10 of confusion and what would ultimately result in a
11 50 foot right-of-way accessing the parcel back
12 behind this area which would have been the minimum
13 requirement necessary for a subdivision development
14 at the time.

15 Q. And that was my next question. Is 50 foot
16 right-of-way the minimum according to Beaufort
17 guidelines for subdivisions?

18 A. I believe that's what it was at the time.

19 Q. All right. And at the time, did -- who
20 prepared those deeds?

21 A. Janet Hendrickson, my paralegal would have
22 prepared these deeds.

23 Q. All right. And then you signed off on
24 them?

25 A. Yes, sir.

1 Q. All right. And obviously, Melanie and
2 Leonard Williams signed off on them?

3 A. Yes, they did.

4 Q. And those were the landowners that
5 exchanged the property with the County?

6 A. That's my understanding.

7 Q. All right. And in the whole scheme of
8 things, was this a big deal in Beaufort County
9 business?

10 A. No. Ultimately, because we were
11 transferring an interest in real property, we took
12 the matter before Beaufort County Council. We
13 showed them the plats highlighting the area's
14 confusion. Outlined for them the property to be
15 exchanged. They approved of the transaction, and
16 then we moved forwarded and executed upon it.

17 Q. And was there any confusion between the
18 County or the Williams as to what was going on?

19 MR. FINGER: Objection. He can't
20 testify as to whether the Williamses were confused
21 or not.

22 BY MR. MURPHY:

23 Q. Okay. Did you have any confusion as to
24 what the County was trying to accomplish?

25 A. I don't recall any hiccups or obstacles

1 that came up when we moved forward with this. It
2 went off without a hitch.

3 Q. And that's all I have. Thank you.

4 CROSS EXAMINATION

5 BY MR. FINGER:

6 Q. All right. What plats have you reviewed,
7 Josh, in preparation for today? Any?

8 A. Chris had sent me a couple plats regarding
9 this particular property.

10 Q. Okay. And you mentioned areas of
11 confusion. What caused the areas of confusion; do
12 you know?

13 A. I don't recall specifically. I don't know
14 if it was an encroachment or if it was -- it could
15 have been that there was multiple surveys and one
16 survey showed one thing and another survey showed
17 something else. I just remember we ultimately wound
18 up with a survey that highlighted areas of
19 confusion.

20 Q. Okay. Have you ever seen a plat -- have
21 you seen the plats that are referenced in these quit
22 claim deeds?

23 A. Yes. They would have been a part of this
24 transaction when we conducted it.

25 Q. Okay. Have you ever seen plats that have

1 specific areas that say areas of confusion?

2 A. I don't recall another one that I've
3 worked on specifically. This is the only one that I
4 can recall.

5 Q. The property description in the deed from
6 the Williamses to the County --

7 A. Yes.

8 Q. -- do you have that one?

9 A. Yes.

10 Q. Okay. It says you're going to -- the
11 Williamses are going to transfer up to 3.38 feet in
12 an area of confusion?

13 A. Yes. On the plot, I believe, there was a
14 bigger area of confusion and there was a little area
15 of confusion. The bigger area is what the County
16 was giving to the landowners. And the little area
17 is what the landowner was giving to the County.

18 Q. I'm handing you Exhibit D and ask is that
19 the plat that you're referring to?

20 A. I believe it is.

21 Q. Okay. Does it -- give me one second,
22 please. And that plat is dated what, please, sir?

23 A. I believe it's signed July 28th, 2005.
24 It's a little difficult to make out, but that's my
25 best guess.

1 Q. And this is a plat that is recorded in 110
2 at 42? Are you able to determine from that whether
3 if, in fact, that's the recording?

4 A. The book and page number is listed here,
5 but I'm not sure that I see the --

6 Q. Look down at --

7 A. Oh, here it is. No.

8 Q. 110 at 42?

9 A. Yes. Book 110, Page 42.

10 Q. Okay. And so this was the plat that is
11 referenced in those property descriptions, correct?

12 A. I believe it is, yes.

13 Q. Okay. And this plat does not match the
14 subdivision survey; am I correct? You'll see a note
15 there that says, note, this survey does not match
16 the plat of recorded. What does that mean? Do you
17 know?

18 A. I don't know. But I know it states it on
19 the face of the document.

20 Q. Okay. And right under that it says, phase
21 plats of subdivision do not agree, correct?

22 A. That is what it says, yes.

23 Q. Okay. Now, the 3.38 feet referenced in
24 the Williamses' deed to the County, which area of
25 confusion is that supposed to come out of?

1 A. I believe it's the northern area of
2 confusion because, again, the ultimate goal with
3 this transfer was to result in a 50 foot
4 right-of-way between the two parcels on either side.

5 Q. Okay. Prior to these quit claim deeds,
6 the County took the position that it did not own the
7 right-of-way, did not maintain it and had no claim
8 to Bostick Road. Am I correct?

9 A. I don't know that I could affirmatively
10 state that. I don't recall statements being made
11 one way or the other.

12 Q. I will hand you a letter. Robert Klink
13 was the county engineer back in '04; is that
14 correct?

15 A. That's my understanding. Although, I was
16 not with the County at that time.

17 Q. And that letter from Mr. Klink
18 specifically states that the County doesn't own,
19 doesn't maintain Bostick Road. Am I correct?

20 A. That is with the letter states.

21 Q. Your Honor, we would offer this as
22 Defendants 1, please.

23 MR. MURPHY: No objection.

24 JUDGE DUKES: All right. That will
25 be Defendant's 1. Do you have an extra copy of

1 this?

2 MR. FINGER: I thought I did, but
3 apparently not.

4 JUDGE DUKES: Is that part of the --

5 MR. FINGER: No. That is not part of
6 the package. And I'm sorry that I only had two
7 copies of it, Your Honor.

8 JUDGE DUKES: That's all right. Let
9 me just look at it real quick and then we'll leave
10 it up here so I don't -- all right. Thanks. So
11 Defendant's 1 without objection.

12 (MARKED DEFENDANT'S EXHIBIT NO. 1.)

13 MR. FINGER: So as of the time of
14 Defendant's Exhibit 1, which was in '04, the County
15 had no claim at all to the Bostick Road
16 right-of-way?

17 A. That's what the document from Mr. Klink
18 states.

19 Q. Okay. How did the County acquire any
20 interest in Bostick Road right-of-way?

21 A. I'm not sure that I could answer that.

22 Q. Okay. Have you ever seen this document?

23 A.. I don't recall it. No.

24 Q. Okay. Can't ask you to do much with it
25 then. The plats that were sent to you by Mr. Murphy

1 to review, did it include Exhibit A that's been
2 given to the Judge? Do you have what he sent to
3 you?

4 A. I don't. No.

5 Q. I'm going to hand you a copy of Exhibit A
6 and ask you have you -- have you seen that before?

7 A. If it was included in the packet, I don't
8 recall it. No.

9 Q. And part of your job both as -- you're a
10 lawyer. You've been a lawyer for how long?

11 A. I've been licensed in Ohio since 2008 and
12 licensed in South Carolina since 2009.

13 Q. Okay. So you deal with plats on a -- not
14 a frequent basis, but you're conversant with plats.

15 A. Occasionally, yes.

16 Q. Okay. This plat in 1965, which is Exhibit
17 A, is the subdivision plat that set the boundaries
18 for Bostick Road right-of-way and for Lot 1, the lot
19 we're talking about today; is that correct?

20 A. Yes, that's what it appears to state.

21 Q. Okay. Okay. And are you aware that a
22 couple years later a surveyor by the name of Hussey
23 did a survey which was incorrect on this exact same
24 area?

25 A. No. I wouldn't have had that specific

1 knowledge.

2 Q. And you never -- you've never seen the
3 Hussey plat?

4 A. I might have at one point, but I don't
5 specifically recall it.

6 Q. You indicated that you don't know how the
7 County acquired any ownership of the right-of-way at
8 any time. You don't know how that happened; is that
9 correct?

10 A. Not specifically.

11 Q. Okay. All right. Back to the plat of
12 Exhibit D which has the areas of confusion. The
13 3.38 feet, did it -- you said it came out of the
14 northern portion up in here?

15 A. I believe so. If I have this oriented
16 correctly, if that's the road, then it would have
17 been the smaller portion up here.

18 Q. So the 3.38 feet that the Williamses gave
19 to the County came from this area of confusion that
20 I'm pointing to on Exhibit D?

21 A. What I recall from the plat that we were
22 working with, the larger area of confusion is the
23 amount of property that the County was conveying to
24 the property owners. The smaller area of confusion
25 is what the property owners were conveying back to

1 the County to result in a clear 50 foot
2 right-of-way.

3 Q. In conjunction with his transaction with
4 these two quit claim deeds, the County could have
5 chosen to get a plat done that said here's the
6 3.38 feet and here's the 10 feet and there would
7 have been no confusion; am I correct?

8 A. I think the intent by executing these quit
9 claim deeds was to resolve any confusion that was on
10 the plat in question. That's why it specified in
11 there that they were cross -- you know, transferring
12 to each other.

13 Q. Okay. Specifically identify for me, if
14 you can, what property up to 3.38 feet the
15 Williamses deeded to the County. Where is it on
16 this plat?

17 A. It was the smaller portion of property.
18 I'm not sure --

19 MR. MURPHY: And this has been asked
20 and answered, Judge.

21 JUDGE DUKES: Well, I don't know if
22 he's actually identified it on the plat, though.

23 THE WITNESS: If this is a .07 acre
24 and this is a .02 acre, then this would have been
25 the portion that they would have deeded to the

1 County and this is the portion that the County would
2 have deeded to them.

3 BY MR. FINGER:

4 Q. But how much? This is L1; am I correct?
5 Is that L1 right there --

6 A. That's what's --

7 Q. -- on the plat?

8 A. That's what's stated on the plat.

9 Q. If you look up here, L1 is how many feet,
10 13.38?

11 A. That's what it says on there, yes.

12 Q. Okay.

13 A. But I know the .02 acres is referenced in
14 the quit claim deed as being transferred to the
15 County.

16 Q. Well, the quit claim deed says they're
17 transferring up to 3.38 feet is what the Williamses
18 are transferring to the County?

19 A. Understood.

20 Q. Okay. So --

21 A. And it was the smaller area of confusion
22 on the plat.

23 Q. All right. But this area of confusion on
24 the plat is 13.38 feet, not 3.3 feet -- 3.38 feet.

25 A. Okay.

1 Q. So what 3.38 feet up to did the Williamses
2 transfer to the County? Can you specifically show
3 me on this plat?

4 A. It was the intent to transfer the small
5 area of confusion to the County and have the County
6 transfer the large area of confusion to the property
7 owner.

8 Q. Do you have any idea -- you refer to the
9 large area of confusion, how did that area get
10 confused? Do you have any idea?

11 A. No. I don't know what caused the
12 confusion. Like I said, I think it may have been
13 competing plats at one point in time.

14 Q. Would you term these dates to be ambiguous
15 in what property was transferred?

16 A. I don't believe at the time that they were
17 ambiguous. I think the property owners were very
18 clear as to what they were transferring to us, and
19 it was very clear what the County was transferring
20 to them.

21 Q. In conjunction with your work as a lawyer,
22 I know you've worked in government practice for
23 quite awhile, were you ever in a situation where you
24 closed real estate transactions, residential?

25 A. No.

1 Q. Okay.

2 A. That was never a part of a practice.

3 Q. So you're not familiar with issuing title
4 policies or any of that sort?

5 A. No.

6 Q. Did the County get a title policy on the
7 properties related to these two?

8 A. With a quit claim deed, no.

9 MR. FINGER: Okay. Thank you. I
10 have no further questions.

11 MR. MURPHY: Nothing, Your Honor.
12 And I would just put into -- I believe it's already
13 in. The 2005 transfer from the Trask, the 60 foot
14 right-of-way to the County, which happened after the
15 2004.

16 MR. FINGER: Your Honor, he can't
17 just -- it's already in. We've agreed to it,
18 correct.

19 MR. MURPHY: Right. So --

20 JUDGE DUKES: Well, let's identify it
21 anyway if we have it.

22 MR. MURPHY: It's Exhibit C.

23 MR. FINGER: Right.

24 JUDGE DUKES: Just to see if
25 Mr. Gruber -- since he's still on the stand, maybe

1 he can identify it.

2 FURTHER DIRECT-EXAMINATION

3 BY MR. MURPHY:

4 Q. I -- were you the County -- I'll ask.
5 Were you the County Attorney in 2005?

6 A. No, I was not.

7 Q. Okay.

8 JUDGE DUKES: Well, it's a public
9 record, Terry. No objection, I assume?

10 MR. FINGER: Yes. No objections.
11 It's already in without objection. But that leads
12 me to some recross, though, if I could, please.

13 JUDGE DUKES: Yeah. No problem. Go
14 ahead.

15 FURTHER CROSS-EXAMINATION

16 BY MR. FINGER:

17 Q. Assume, if you would please -- and I'll
18 draw your attention to the subdivision plat which is
19 Plat A, Exhibit A. Assume that the Trasks were
20 originally in this chain of title and transferred
21 this lot out from their ownership.

22 A. Uh-huh.

23 Q. Ultimately owned by my client.

24 A. Uh-huh.

25 Q. Okay? And assume, if you would, that the

1 transfer of Lot 1 was made pursuant to Exhibit A,
2 that plat. That's the property description that
3 starts Exhibit 1 or Lot 1.

4 A. Uh-huh.

5 Q. Okay. So the Trasks have already
6 transferred out all of Lot 1. Okay. So if they are
7 transferring some portion of a 60 foot right-of-way
8 in this deed in '05, Exhibit C, they can only
9 transfer what they still own; is that correct?

10 A. My understanding is you can only transfer
11 what you own.

12 Q. So if they had already transferred out and
13 some of this description for this 60 foot
14 right-of-way was already owned by the Lot 1, at
15 least, the portion in this right-of-way conveyance
16 is ineffective?

17 A. That very well could be the case.
18 However, I would state that in order for the
19 subdivision to be effective pursuant to Beaufort
20 County regulations there would have needed to have
21 been a clear 60 foot right-of-way at the time that
22 the subdivision was permitted.

23 Q. Well, this plat is in 1965. Do you know
24 what the right-of-way provisions were in 1965 in
25 Beaufort County?

1 A. Given that that was before Home Rule, I'm
2 not sure if we would have necessarily had zoning in
3 place at the time.

4 Q. Wouldn't have even had any rules. And at
5 one point in time the County said we don't even own
6 this road. We looked at that letter in 2004.

7 A. Yes. And I'm going to say -- but it's not
8 uncommon for a lot of subdivisions once they're
9 completed or once they're built out to ultimately
10 transfer the roads over to the County for future
11 maintenance and responsibility. That's happened
12 quite frequently.

13 Q. And this deed from the Trasks to the
14 County for the right-of-way doesn't refer to any
15 plat of record. It just attaches a drawing by
16 Mr. Trogdon; am I correct?

17 A. It would state what it states on the face
18 of the document.

19 Q. Okay. And this drawing was done for the
20 Engineering Department by Surveyor Trogdon; am I
21 correct?

22 A. That is what it states.

23 Q. Okay. And you've been in Beaufort County
24 for quite awhile?

25 A. Since 2011.

1 Q. Okay. And have you dealt with Mr. Trogon
2 before or his -- are there four?

3 UNKNOWN SPEAKER: Three, I believe.

4 THE WITNESS: No, he was previously
5 employed by the County, but he was no longer with
6 the County by the time I was hired.

7 BY MR. FINGER:

8 Q. Okay. And who drafted this deed, do you
9 know? Did that come out of you all's office, also?

10 A. I don't know. No. That would have been
11 before my time.

12 MR. FINGER: Okay. Thank you. No
13 further questions.

14 MR. MURPHY: Nothing, Your Honor.

15 COURT REPORTER: Judge, am I supposed
16 to mark this Plaintiff's 1?

17 JUDGE DUKES: So that's going to
18 be --

19 MR. FINGER: That's Exhibit C.

20 MR. MURPHY: Exhibit C.

21 MR. FINGER: That's already in.

22 MR. MURPHY: That's in.

23 JUDGE DUKES: Oh, that's a part of
24 the package. Let me ask you all this before we get
25 all mixed up. I don't think Deborah has the package

1 which is County's trial exhibit list.

2 MR. MURPHY: Here. Let me give
3 her --

4 JUDGE DUKES: And that is 1 through
5 12, although they are labeled A through M.

6 MR. MURPHY: Actually, I don't have
7 another.

8 MR. FINGER: Can we go off the record
9 for a second? I can give her a complete package.

10 JUDGE DUKES: So, yeah. Let's -- if
11 those are not going to be -- if everyone's going to
12 agree to those, why don't we go ahead and get them
13 in so we don't make mistakes later.

14 (MARKED PLAINTIFF'S EXHIBIT NO. 1,
15 SUBPARTS A-M.)

16 JUDGE DUKES: Okay. Back on the
17 record in 327. While we were off the record, we
18 marked Plaintiff's Exhibit 1 which is the package
19 labeled County's -- Beaufort County's Trial Exhibit
20 List. So, we've got Plaintiff's Exhibit 1 which is
21 in without objection. It contains Subparts A
22 through M which, of course, are entered without
23 objection. And so this is the only exhibit that we
24 have in. Was the letter an exhibit, also?

25 MR. MURPHY: It was not in that

1 packet.

2 JUDGE DUKES: It was not in the
3 package. Is it an exhibit, though?

4 MR. FINGER: It's been marked as
5 Defendant's 1.

6 JUDGE DUKES: Okay. It's Defendant's
7 1. So, we have Plaintiff's 1 and Defendant's 1 at
8 this point as admitted exhibits. The --a question
9 was may Mr. Gruber depart. And --

10 MR. MURPHY: He may.

11 JUDGE DUKES: -- that's fine with me.
12 So all right. Thank you so much.

13 MR. MURPHY: Next we call David
14 Gasque.

15 JUDGE DUKES: Welcome, sir.

16 MR. GASQUE: Yes, sir.

17 JUDGE DUKES: Do you swear or affirm
18 to tell the truth, the whole truth, and nothing but
19 the truth so help you god?

20 THE WITNESS: I do.

21 JUDGE DUKES: Can you state your
22 whole name for the record, please?

23 THE WITNESS: David Edwin Gasque.

24 MR. MURPHY: And, Your Honor, I would
25 tender Mr. Gasque as an expert in the field of land

1 surveyance or surveying.

2 MR. FINGER: Without objection.

3 JUDGE DUKES: All right.

4 MR. FINGER: Your Honor, could we go
5 off the record for one second?

6 JUDGE DUKES: Sure. This is off the
7 record. Back on. I can't remember if I said this
8 before we went off, but I will find that Mr. Gasque
9 as an expert in the field of land survey.

10 DIRECT EXAMINATION

11 BY MR. MURPHY:

12 Q. All right. Now, I'm going to ask you, Mr.
13 Gasque to kind of work backwards. And I'm going to
14 hand you a large version of Exhibit M and ask you do
15 you have an opinion about what the property lines
16 are on Bostick Road as they apply to Lot 1?

17 A. Today I do, yes, sir.

18 Q. And what is your opinion?

19 A. My opinion is a line I labeled to line as
20 agreed to and shown on this plat, plat book, you
21 know, 3080, Page 655.

22 Q. All right. Now, we've done some
23 highlights there. And could you kind of walk us
24 through the highlights. What -- the lines that are
25 highlighted in yellow, could you tell the Court what

1 those lights are?

2 A. You have conflicting -- well, you really
3 didn't have conflicting phase plats. The senior
4 line out there above all is the line between Bostick
5 and Salem Point. That is the senior line that
6 usurps everything else.

7 When you come down the 110 which is a
8 marker found, you came to a right-of-way. Then you
9 went 60, you found a concrete marker. Then you went
10 the 144, found another marker. The 119. So all
11 this line fed it.

12 However, the problem was is that when
13 Phase 2 came about it put that right-of-way at an
14 angle. So, was it coming in perpendicular as in
15 Phase 1 or was it coming in at an odd angle. Then
16 along comes Christensen later on and declares a
17 scrivener's error and moves the line 30 feet to the
18 west.

19 Well, a scrivener's error by what I
20 understand is you make a typo. You don't move
21 markers. That's a lot line correction. He
22 physically did a lot line revision without
23 correcting Phase 1. So he didn't automatically --
24 because even though if he pulled that line that
25 automatically pulled the line on the side. That

1 leaves an angle.

2 Q. All right. Let's just back up for one
3 second. I'm going to hand you what's marked as
4 Exhibit 1, Subpart A.

5 A. Yes, sir.

6 Q. And just tell the Judge what that is.

7 A. This is Phase 1, Salem Point and it
8 clearly shows Lot 1 as being rectangular in nature.
9 And it shows a frontage of 150 feet. It shows a
10 dimension down the side of 110 and then the distance
11 on out through the critical line.

12 Okay. And this is what the line that we
13 -- it was the line. We actually gave the 10 foot up
14 down here because if you go from here to there where
15 I'm pointing, it's 110. So the problem is whoever
16 -- when they did the survey, there was a bust or
17 something and it didn't fit.

18 The comment came up why didn't I hold the
19 original markers set by A.J. Hussey. That marker is
20 junior to that senior line. So, as surveyors, how
21 do we resolve this. So some people would come down
22 the line, slide a perpendicular, and come hit it.
23 But that gave them way much more land than they were
24 entitled to.

25 If you take the 110 plus that dimension

1 and this dimension, divide it by two, multiply it by
2 150, they're entitled to roughly .54 acres.

3 Q. All right. Now, you have Subpart B of
4 Exhibit 1 which is --

5 A. That is the same thing. Here again, Lot 1
6 stays the same.

7 MR. FINGER: Is this the --

8 THE WITNESS: Phase Two.

9 MR. FINGER: Hussey -- is this the
10 Hussey plat?

11 THE WITNESS: Yes, sir.

12 MR. FINGER: From like two years
13 after this one?

14 MR. MURPHY: Yes. The next year,
15 yes.

16 THE WITNESS: And, like I said, the
17 dimensions along the line between Bostick and Salem
18 never changed. Those two points on the 60 foot
19 right-of-way as shown on this one and those two
20 points on the 60 foot right-of-way shown on Phase 1
21 are one in the same. Here again, we've got that
22 cocked and that right-of-way coming into the
23 property.

24 BY MR. MURPHY:

25 Q. Okay. Now, there was some point that

1 there was a boundary issue or are you familiar with
2 a boundary issue across the street for the property
3 of --

4 A. Yes, sir.

5 Q. -- Lot 15?

6 A. They did Phase 1. They did 144 feet on
7 the back. Niels Christensen came in and did a lot
8 line revision. Declared on a type -- they declared
9 a scrivener's error. So they said they only moved
10 one line, but in theory they moved two other lines.

11 Then they do window dressing like they
12 addressed Phase 1, but they didn't. It was just
13 window dressing. Then later on, 2000 -- I think it
14 was 2009, there was another deed -- a corrected deed
15 struck that actually showed the intent of the
16 developer to put it back to 144 on the back.

17 Q. Okay.

18 A. So what we have is just -- if we honor the
19 Christensen right-of-way, we're going through
20 buildings.

21 Q. All right. So the orange lines would be
22 if you honored the Christensen right-of-way; is that
23 correct?

24 A. That is correct.

25 Q. All right. Now, we have this 2011 deeds

1 that we've talked about.

2 A. Right.

3 Q. You're familiar with them? If we honor
4 those 2011 deeds, where are the lot lines?

5 A. In my opinion?

6 Q. Yes.

7 A. The lot line based on that would be the
8 original line between Bostick and Salem, the lot
9 line between Phase 1, Lot 2, and the one that we'd
10 shown as agreed to. This purpose was my survey --
11 and we hear the word confusion. It is. It's not
12 wrong to say you're confused which ones goes where.

13 And the bottom line is this. The plats
14 were competing. So I showed two scenarios that I
15 think -- and there could have been a third or fourth
16 scenario that could have worked, but you got to
17 realize I did my plat with the Williamses'
18 understanding we're cleaning it up.

19 The purpose of my plat was to clean the
20 whole process up. The County, you want to know how
21 they got the deed from the Trask? I called Doug
22 Trogdon in 2004 when we were having all these other
23 issues with that plat trying to resolve it. I said
24 do you all own that right-of-way? And that's when
25 he went back in got a chain of title in there before

1 the Williamses conveyed it out. Because he needed
2 -- he needed to get that into the chain. And that's
3 what he did.

4 Q. And the yellow lines, does that represent
5 the right-of-way under the 2011 quit claim deeds?

6 A. The yellow -- under the quit claim deeds,
7 the yellow line -- yes, sir.

8 Q. Okay.

9 A. And you -- I heard you all talking about
10 the big piece and the little piece. In the quit
11 claim deed --

12 Q. That was my next question.

13 A. -- they talk about a 50 foot right-of-way
14 and to take it out of the confusion. Well, the 3.38
15 came out of the little area up at the top.

16 Q. And when you say the little area, that's
17 the area in blue?

18 A. That'll be the one in -- is that blue?
19 Blue. And the 10 foot came out of the area up here.

20 Q. And that's the triangle in green?

21 A. Right. And the whole purpose was this, in
22 our conversations, was to make sure we cleared the
23 buildings and have a clear-cut 50 foot right-of-way
24 for purposes of ingress/egress.

25 Q. In your mind, did you have any -- let's

1 back up. How did you first get involved in this
2 process?

3 A. 2004, Tony Bergman came in and asked me to
4 do a survey. And we did. When we first went out
5 there, we honored the line between Bostick and
6 Salem. We came up 110. We turned it 90 degrees.
7 We came over and we sat it. And there's plats we'll
8 talk about later I'm sure. But, anyway, it didn't
9 fit what was physically out there. Like there were
10 barns over the line. There's a well over the line.
11 There's just things going on.

12 Q. And are the 2011 deeds in the chain of
13 title for this property?

14 A. Repeat your question?

15 Q. Are the 2011 deeds in the chain of title
16 from you researching this property in terms of -- to
17 determine --

18 A. Yes, sir. The quit claim deeds are in the
19 chain.

20 Q. All right.

21 A. The deed I saw conveying out referenced
22 Lot 1 so and so and the plat book and page.

23 Q. Thank you. That will --

24 A. But the sole purpose of this was to clean
25 it up. We knew we had a problem. I had two

1 property owners agreeing there was a problem. And
2 they wanted to solve it because they were thinking
3 about borrowing money to build a house and they
4 didn't want issues.

5 Q. And that was my question was were
6 Williamsses involved with this transaction as you
7 were --

8 A. Yes, sir.

9 Q. -- working with them?

10 A. I've sat down with Melanie. I've sat down
11 with Alan. I told them the issues. I showed them
12 which ways it could or couldn't go and they were --
13 and then Alan handled it from there.

14 Q. And was there any question about what was
15 going on in your mind?

16 A. No, sir. I thought this matter was
17 resolved because, you know, everybody kind of came
18 to a meeting of the minds.

19 MR. MURPHY: Thank you. That's all I
20 have.

21 CROSS-EXAMINATION

22 BY MR. FINGER:

23 Q. May it please the Court. The original
24 subdivision plat which is Plaintiff's 1-A is done by
25 Mr. Wilson; is that correct?

1 A. F.H. Wilson, yes.

2 Q. And it was done in 1965; am I correct?

3 A. Yes, sir.

4 Q. And that plat sets out the specific
5 boundaries for Lot 1; is that correct?

6 A. Yes, sir.

7 Q. Okay. And this plat was recorded 15 at
8 31; am I correct?

9 A. Yes, sir.

10 Q. And you have seen this plat before?

11 A. Yes, sir.

12 Q. And you saw this plat before you did any
13 of your survey work out there?

14 A. Yes, sir.

15 Q. And the first survey work you did out
16 there --

17 MR. FINGER: And, I'm sorry I'm
18 standing up, Judge, but old habits die hard.

19 JUDGE DUKES: No. No. I get it.

20 MR. FINGER: And I want to be able to
21 reach over.

22 BY MR. FINGER:

23 Q. The first survey work you ever did in this
24 area was actually on Lot 2; is that correct?

25 A. Yes, sir. We --

1 Q. In 1994?

2 A. We did a re-tracement of what R.D. Trogdon
3 did prior.

4 Q. Okay. And the whole problem here is that
5 when you look at the subdivision plat which sets out
6 Lot 1, which is the one you just identified from
7 1965, Mr. Wilson. Hussey comes along in Plat Book
8 15 at 71 and he misaligns Bostick Road; does he not?

9 A. I can only assume he misaligned it or he
10 just had an overlap and didn't catch it.

11 Q. At what he did is actually he took
12 property away from Lot 1 by this plat which is
13 Plaintiff's 1-B?

14 A. I disagree that he took property away from
15 them because they still had the 110 foot dimension
16 and they still had the area.

17 Q. Well, this first plat, Mr. Wilson's plat,
18 shows Bostick Road being at a right angle; am I
19 correct?

20 A. That is correct.

21 Q. Hussey's plat does not show it being at a
22 right angle. So where would the land have come from
23 that he took?

24 A. If you hold that same point and that point
25 with that angle, it would come away from it.

1 Q. And you will note that on Plat Plaintiff
2 1-B, which is Mr. Hussey's plat, there is no
3 dimension on Lot 1 on the top side; am I correct?

4 A. Welcome to my world, yes, sir.

5 Q. Okay. There is a dimension in
6 Mr. Wilson's plat, correct?

7 A. That is correct.

8 Q. So, each --

9 A. And that is senior to that.

10 Q. And this is the senior plat. This plat
11 controls Lot 1.

12 A. That's correct.

13 Q. Do you agree with that?

14 A. Yes, sir.

15 Q. Okay. And there's never been any
16 confusion about -- you said this -- the line along
17 the Bostick property is the dominant line or senior
18 line. You said that was the senior line; am I
19 correct?

20 A. That's correct.

21 Q. There was never any confusion about where
22 the lot line was between Lot 1 and the Bostick
23 property; am I correct? There was never any
24 confusion about the barring of that line?

25 A. I agree there was no confusion.

1 Q. Okay.

2 A. In my opinion, that was always the line.

3 Q. Right.

4 A. But since on one of the plats we did a
5 parallel to show if we honored this parallel and
6 this parallel it would generate that. So they felt
7 they needed to just go ahead and clean that up.

8 Q. Who's they?

9 A. Frampton Harper and Ms. Bostick.

10 Q. Okay. And if we look at the plat that is
11 attached to the quit claim deeds between Williamses
12 and the County that Mr. Gruber was talking about --

13 A. Yes, sir.

14 Q. -- you have an area of confusion along
15 this line here that you said was the senior line.

16 A. Yes, sir.

17 Q. Is that correct?

18 A. That's correct.

19 Q. Is that the parallel that you're talking
20 about?

21 A. The parallel would be one on this side.

22 Q. Okay.

23 A. Because if we ran up the 110 that we show
24 on the Trogon, turn 90 degrees and go down, that
25 would be the area. This plat purports the overlaps

1 or the gaps, the confusion. They don't agree.

2 Q. You did a plat for some folks of Lot 1 and
3 2 -- I'm sorry, Lot 2 in '94; am I correct?

4 A. I believe so, yes, sir.

5 Q. Is that a copy of it?

6 A. That's it.

7 Q. And that was a plat that you did for Lot
8 2.

9 A. That is correct.

10 Q. Is that correct? And you did it for the
11 owners of Lot 2 at the time?

12 A. That's correct.

13 Q. Could I have this marked, please, as
14 Defendants 2?

15 JUDGE DUKES: All right.

16 UNKNOWN SPEAKER: Are you off the
17 record?

18 JUDGE DUKES: We're still on, but we
19 can go off.

20 UNKNOWN SPEAKER: I just wanted to
21 point out why I'm sticking my big nose in this. I
22 represent the Bosticks' interest.

23 JUDGE DUKES: Okay. Yeah. No.
24 You're obviously welcome. We're still on. So that
25 will be --

1 MR. FINGER: Defendant's 2, Your
2 Honor.

3 JUDGE DUKES: -- Defendant's 2.
4 Thank you. Without objection I understand.

5 (MARKED DEFENDANT'S EXHIBIT NO. 2.)

6 BY MR. FINGER:

7 Q. Defendant's 2 does not match the
8 boundaries for Lot 1 that is on Mr. Wilson's plat
9 from 1965; am I correct?

10 A. Defendant's 1, yes. In my opinion, there
11 are some issues there.

12 Q. And your -- and I'm looking -- I'm holding
13 it -- the plat -- your -- Defendant's Exhibit 2, I'm
14 holding it and you show a slanted line on Lot 2 as
15 their top boundary.

16 A. Well, they --

17 Q. Are you following my question? Is that
18 what Defendant's 2 shows?

19 A. This slanted line --

20 Q. Yes. Right.

21 A. -- is a calculated line to the boundary,
22 but technically they own on out to the marsh.

23 Q. Okay. And where's the boundary for Lot 1?
24 Here, right?

25 A. Lot 1 is parallel.

1 Q. Parallel? Okay.

2 A. Uh-huh. And here, again, it's from the
3 right-of-way of the road all the way out to the
4 marsh.

5 Q. And you found a pipe --

6 A. Yes, sir.

7 Q. -- on the boundary between 1 and 2. You
8 found two pipes; is that correct?

9 A. That is correct.

10 Q. That's what your survey shows.

11 A. That's correct.

12 Q. And those pipes were probably set by Mr.
13 Wilson when he did the 1965 subdivision. Would that
14 be --

15 A. I know they were --

16 Q. -- A correct assumption?

17 A. I know that R.D. Trogdon found them before
18 I did. So, yes.

19 Q. What Trogdon plat are you referring to?

20 A. It would have been a senior. It's in the
21 file somewhere -- or a Junior. I'm sorry.

22 Q. Is that plat you're referring to?

23 A. No, sir.

24 Q. Is that a plat by Mr. Trogdon?

25 A. I have no idea. I didn't look. Yes, it

1 is. R.D. Trogdon, Junior.

2 Q. From 1988?

3 A. Yes, sir.

4 Q. Recorded at 35 at 215?

5 A. Yes, sir.

6 Q. Have you seen that plat before?

7 A. No, sir.

8 Q. You have not seen this plat before?

9 A. Uh-uh. The one I'm referring to will look
10 very much like this configuration.

11 Q. Pretty much like that?

12 A. Yes, sir.

13 Q. Do you have a file that would have that
14 with it? Do you have your file with you? Would the
15 plat you're referring to be in there?

16 A. I think I can find it.

17 Q. Okay. Thank you.

18 A. Can I get up and find it?

19 JUDGE DUKES: Yeah. Go ahead. Why
20 don't -- why don't we utilize this as a quick break.
21 So we'll be off the record and take five minutes to
22 wander about. So, Mr. Gasque, don't discuss your
23 testimony with anyone during the break.

24 (BREAK TAKEN)

25 JUDGE DUKES: All right.

1 BY MR. FINGER:

2 Q. You have found in your file the July
3 12th, 1979, Trogdon plat; is that correct?

4 A. Yes, sir.

5 Q. And you used that plat when you did your
6 plat, Defendant's Exhibit 2?

7 A. That was part of the chain and research,
8 yes, sir.

9 Q. Okay. Thank you. Now, if we could go
10 back to the Wilson plat -- the subdivision plat for
11 19 -- in 1965 that sets out Block D and Lot 1 which
12 is Mr. Summerall's lot.

13 A. Yes, sir.

14 Q. This shows a 60 foot right-of-way for
15 Bostick Drive; am I correct?

16 A. Yes, sir.

17 Q. Okay. And it shows Bostick Drive hitting
18 what you refer to as a superior line to the Bostick
19 property at right angles; am I correct?

20 A. That is correct.

21 Q. And it does show that Mr. Wilson set five
22 markers on Lot 1 and four markers on what is to
23 become Lot 15. This is Lot 15 here where I'm
24 pointing.

25 A. I assume so, without looking at a plat.

1 Q. Okay. But you do see that there are --
2 there are markers set by Mr. Wilson; one, two,
3 three, four, five, six, seven.

4 A. Yes, sir.

5 Q. Is that correct?

6 A. Yes, sir.

7 Q. Okay. And those markers are the superior
8 marking in surveying -- surveyor's world; is that
9 correct.

10 A. You're trying to get to the term original
11 markers, the ten of the survey.

12 Q. I'm not a surveyor.

13 A. That is fine, but you're telling me. But
14 those markers are subject to the superior line. So,
15 yes, those are the markers that Mr. Wilson set.

16 Q. And those are the markers that defined the
17 boundaries along the superior line of Lot 1. It
18 also defines the boundaries for Lot 1 along Bostick
19 Drive. And it defines the Bostick Road right-of-way
20 as it would've impacted Lot 15 later; am I correct?

21 A. It should, yes, sir.

22 Q. It should. And they should control?

23 A. They should control.

24 Q. Right. So when Mr. Hussey comes along
25 with his plat two years later, Plat Book 58 at 71,

1 which is Exhibit B -- 1-B, he is wrong; am I
2 correct?

3 A. He didn't hold those markers.

4 Q. Correct. So that's where whole problem
5 started; am I correct?

6 A. Yes, sir.

7 Q. Okay. And certainly Hussey's plat does
8 not convey or take away any property from the
9 right-of-way or from Lot 1; am I correct?

10 A. My opinion Hussey plat does not set the
11 right-of-way itself or that Lot 1 -- it doesn't
12 affect it.

13 Q. Would it be a safe conclusion that Hussey
14 probably never even looked at Mr. Wilson's plat?

15 A. I wouldn't go so far to say that. Usually
16 we look at adjacent plats or try to.

17 Q. And if you look at adjacent plats, you
18 typically list them on the plat as something you
19 looked at; am I correct?

20 A. Sometimes. No, sir.

21 Q. Do you typically do that?

22 A. If I think they're relevant.

23 Q. Okay. Well, was there any note on
24 Mr. Hussey's plat that he looked at this plat?

25 A. No, sir.

1 Q. In Mr. Hussey's plat, most of these lots
2 along the superior line are in the 110 to 115 range;
3 am I correct?

4 A. Yes, sir.

5 Q. Until you get to 15?

6 A. That is correct.

7 Q. And all of a sudden on 15 he goes to like
8 144; am I correct?

9 A. Yes, sir.

10 Q. Okay. Now, you are familiar with the plat
11 that Mr. Christensen did in 1967; are you not?

12 A. Yes, sir.

13 MR. FINGER: Okay. And is that in
14 your package?

15 MR. MURPHY: I don't have the -- no.

16 MR. FINGER: Okay. This would be
17 Defendant's Exhibit 3, Your Honor.

18 THE WITNESS: Yes, sir.

19 JUDGE DUKES: And why don't we --

20 MR. MURPHY: It's actually --

21 JUDGE DUKES: -- put a sticker on
22 that one. That will be Defendant's 3 without
23 objection.

24 (MARKED DEFENDANT'S EXHIBIT NO. 3.)

25 MR. FINGER: And there are some

1 handwritten notes on this plat, Your Honor, that are
2 my client's that were not on the original.

3 JUDGE DUKES: Okay. Chris, any
4 objection to that version?

5 MR. MURPHY: No objection to that.

6 JUDGE DUKES: Okay. All right. No
7 problem then. That one with the understanding the
8 handwritten notes are the defendant's. That'll be
9 Defendant's 3 without objection.

10 BY MR. FINGER:

11 Q. Okay. Defendant's 3 is Niels
12 Christensen's revision of Lot 15; is that correct?

13 A. That's correct.

14 Q. And what he does in that plat is he
15 corrects the boundaries on Lot 15 and puts them back
16 in accordance with what was set by Mr. Wilson in
17 1965. Isn't that what he does?

18 A. He doesn't tell me he does that. He's
19 just saying that -- he just says revision of Lot 15
20 and Block C and he doesn't tell us why he did it.

21 Q. Okay. Does he say, See plat by Hussey and
22 Gay recorded in 15/31?

23 A. Yes, he's referencing the plat.

24 Q. So he is modifying that plat as it
25 concerns Lot 15. Am I correct?

1 A. That is what I'm -- it's not a lot line
2 correction, but if you read the deed, they call it a
3 typo.

4 Q. Okay. What deed are you referring to?

5 A. There's a deed somewhere here that there
6 was a typographical. I think it was Ray Williams.
7 It might have come in later today. So I might be
8 talking --

9 Q. Yeah, like 15 or 18 years later.

10 A. Yeah?

11 Q. Is that correct?

12 A. That's correct.

13 Q. Okay. And have you ever looked at the
14 original deed out on Lot 15?

15 A. I think I did. I don't recall, but I
16 think I did.

17 Q. Okay. And that original deed out on Lot
18 15 refers to this plat by Christensen, 17 of 32;
19 isn't that correct?

20 A. It could be. I need to read it to date,
21 but, yes.

22 Q. So this 114.7 feet on Lot 15 is not a
23 typographical error on this plat; am I correct?

24 A. No, not I'll think so. It's plain it's
25 114.

1 Q. Okay. So Defendant's Exhibit 3 accurately
2 shows the location of Lot 1, Bostick Road
3 right-of-way, and Lot 15; am I correct?

4 A. No, you're not correct.

5 Q. Where am I incorrect?

6 A. The correctment is this is only certifying
7 to Lot 15, Phase 2. All this tells me is they just
8 pulled the western right-of-way of Bostick and made
9 it bigger or created a bigger problem.

10 Q. Okay. Let --

11 A. This plat does not correct Phase 1. You
12 can't correct Phase 1 by using a Phase 2 plat. It
13 should have included for this to correct all this
14 the right-of-way, Lot 1, Lot 2 and do a correction
15 of the whole area to make it understandable.

16 Q. Okay. Well, let me rephrase my question.
17 This Defendant's Exhibit 3 is an accurate and
18 correct depiction of the boundaries of Lot 15?

19 A. As per this plat, yes, sir.

20 Q. Well, and as per the plat in 1965 by
21 Mr. Wilson; isn't that correct?

22 A. No, sir, I don't agree with that.

23 Q. Why don't you agree with that?

24 A. Because Mr. Wilson has a very defined
25 dimension of 110.4 on his plat.

1 Q. Right.

2 A. And when you own that they just paper
3 copied that 110.4 because you notice it hasn't been
4 remeasured. That line has actually gotten to about
5 140 now. So they've stretched Lot 1. So, did the
6 right-of-way on Lot 1 move just because they
7 corrected it on this side? No, it did not. Phase 1
8 is going to have to stand on its own. We still have
9 a boundary issue.

10 Q. All right. Does Defendant's Exhibit 3
11 properly show the dimensions of Lot 15?

12 A. As per that plat, yes, sir.

13 Q. Okay. And this plat was used as the
14 conveyance plat for Lot 15. Does that mean this is
15 the correct description for Lot 15?

16 A. That is telling me that that's what they
17 were conveyed. If that's what it says.

18 Q. Okay. And this shows a 60 foot
19 right-of-way for Bostick Road, this being
20 Defendant's Exhibit 3?

21 A. Defendant's 3 shows an adjacent 60 foot
22 right-of-way, but it was never remeasured.

23 Q. And in Mr. Wilson's plat, the original
24 1965 plat, it shows Bostick Road hitting your
25 dominant line at a right angle?

1 A. That's correct.

2 Q. And as does Defendant's Exhibit 3; is that
3 correct?

4 A. That's correct.

5 Q. Exhibit -- Plaintiff's Exhibit B-1, the
6 Hussey 1967, does not show a right angle?

7 A. That is correct.

8 Q. So we have agreed, have we not, that this
9 Hussey plat is incorrect?

10 A. We have agreed that there's a conflict
11 between them and that's what we agreed to. That's
12 the reason we're here.

13 Q. Thank you.

14 JUDGE DUKES: Was the large plat ever
15 made an exhibit?

16 MR. MURPHY: Yes. That's M.

17 BY MR. FINGER:

18 Q. I'll hand you a plat from 1971 by
19 Mr. Wilson. Have you seen that before?

20 A. No, sir, I have not.

21 Q. Okay. What does it depict?

22 A. It's different from the plat that it
23 depicts at -- it has 127 foot along the Bostick
24 line.

25 Q. Right.

1 A. And it was 110 on their subdivision.

2 Q. Right.

3 A. But I did not find this in my chain.

4 Q. Okay. So you've not seen that plat?

5 A. No, sir.

6 Q. Does it show the Bostick Road right-of-way
7 intersecting the dominant line at a right angle?

8 A. For all practical purposes, yeah, it does.
9 It's 90 degrees.

10 Q. And it shows some concrete markers found;
11 is that correct, down at the --

12 A. That is correct.

13 Q. All right. But you have not seen that one
14 before?

15 A. No, sir.

16 MR. FINGER: Thank you. Can we have
17 this marked as Defendant's 4 for identification,
18 please?

19 MR. MURPHY: No objection.

20 MR. FINGER: Do you have any
21 objection to it going in?

22 MR. MURPHY: Uh-uh.

23 MR. FINGER: No objection?
24 Defendant's Exhibit 4.

25 JUDGE DUKES: All right. Defendant's

1 4 without objection.

2 (MARKED DEFENDANT'S EXHIBIT NO. 4.)

3 MR. FINGER: Was this filed or is
4 it --

5 JUDGE DUKES: Yeah. That's what I
6 was going to ask.

7 MR. FINGER: It has not been
8 recorded. It was acquired by my client when he had
9 access to Mr. Wilson's work files by way of Mr.
10 Youmans. And that exhibit that just got marked --

11 JUDGE DUKES: Four? Okay.

12 MR. FINGER: Defendant's Exhibit 4.

13 BY MR. FINGER:

14 Q. Does that refer to any other plats?

15 A. It refers to the subdivision plat that
16 created it.

17 Q. Okay. His own subdivision plat that
18 created it?

19 A. Yes.

20 Q. Correct. Thank you. I'm going to hand
21 you a plat and ask you if you could identify that
22 for me, please.

23 A. It's a plat I did while I was working for
24 the Bergman.

25 Q. Okay.

1 A. Trying to resolve some of these issues.

2 Q. Okay. And so if we could have this please
3 marked as Defendants 5?

4 MR. MURPHY: No objection.

5 JUDGE DUKES: All right. That'll be
6 Defendant's 5 without objection.

7 (MARKED DEFENDANT'S EXHIBIT NO. 5.)

8 BY MR. FINGER:

9 Q. And this was done on May 24th, '04; am I
10 correct?

11 A. That is correct.

12 Q. Okay. And this purports to show the
13 boundaries of Lot 1; is that correct?

14 A. Yes, sir. It was my first attempt to try
15 to resolve it.

16 Q. And you refer to Mr. Wilson's original
17 plat book 15 at 31; is that correct?

18 A. That is correct.

19 Q. You have the wrong date there. You have
20 1961. It's actually 1965, but you have the right
21 recording information, correct?

22 A. Yes, sir.

23 Q. And you do not refer to any other plats on
24 the face of this plat other than the original
25 subdivision plat by Mr. Wilson?

1 A. That's correct.

2 Q. And this plat, Exhibit 5, does not jive
3 with Mr. Wilson's original subdivision plat, does
4 it?

5 A. No, sir, it does not.

6 Q. Why not?

7 A. Because it wouldn't work. It wouldn't
8 jive out. I was in conversation with Mr. Bergman at
9 this time about seeking professional help, a lawyer,
10 to clean all of this up. We discovered then it
11 didn't match the plat of record. And it needed to
12 be cleaned up.

13 Q. Well, the plat of record for Lot 1 is the
14 plat that Mr. Wilson did in 1965.

15 A. That's correct.

16 Q. That's the plat that the deeds refer to --

17 A. That's correct.

18 Q. -- on Lot 1. Okay. So why didn't -- why
19 didn't this match with what Mr. Wilson had in --

20 A. Because --

21 Q. -- his 1965 plat?

22 A. -- the physical evidence on the ground
23 didn't work.

24 Q. I noticed that you don't find -- you find
25 one pipe. You didn't find any concrete markers?

1 A. That's correct. I was trying to hold the
2 wet -- the southern line parallel with the Bostick
3 line because that appeared to be the intent, to see
4 if it would work out.

5 Q. And this plat does not show right angles
6 coming into the dominant line?

7 A. No, sir, it does not.

8 Q. You found one pipe and you, yourself, set
9 three rods; am I correct?

10 A. On this one we did, yes, sir.

11 Q. And this plat -- is this the start of the
12 -- I'm looking for the plat from -- I'm handing you
13 Plaintiff 1-F which is one of the quit claim deeds.
14 And attached to it is your plat which has two areas
15 of confusion?

16 A. That is correct.

17 Q. This plat, Exhibit 5, is where you start
18 with your areas of confusion; is that right?

19 A. This is a work in progress.

20 Q. Okay.

21 A. Mr. Bergman didn't go any further with me.
22 We did one more rendition -- a couple more trying to
23 solve it. Here again, we were trying -- we knew we
24 had a boundary dispute. We knew we had a boundary
25 problem. We're trying to clean it up.

1 Q. Right. And that boundary --

2 A. And that's evidence.

3 Q. And that boundary problem was created by
4 Mr. Hussey's plat, the second one in line here,
5 which was wrong.

6 A. It was created by the two phases coming
7 together creating that odd angle. And then it was
8 further expounded when they did the revision.

9 Q. How many plats have you done in your
10 career where you have two different areas of
11 confusion listed on a plat? Is this something that
12 you typically use all the time?

13 A. It's more of a nomenclature to let people
14 be aware. To put them on notice. I'm not going to
15 be the judge and jury, but I'm going to let them
16 know there's an area of confusion. It's been --
17 I've seen other surveyors use it. And I've used it.

18 Q. Okay.

19 A. So how many? I've done around 40,000 jobs
20 in Beaufort County. So at least a dozen.

21 Q. Okay. And in all the plats that you did
22 on this -- and here's another one from '04, August
23 of '04. We have -- is that -- again, this is your
24 work; is that correct?

25 A. Yes, sir.

1 Q. This is after the County said we don't own
2 the road. We don't maintain the road. It's not
3 ours. And Lot 1, Lot 2 and Lot 15 owners signed an
4 agreement that says, okay, we're going to reduce
5 this down to 30 feet if the County doesn't own it.
6 So this plat attempts to effectuate that agreement;
7 am I correct?

8 A. I haven't seen the agreement about
9 reducing it down.

10 Q. Bear with me one second while I --

11 A. That's fine.

12 Q. Are you aware of such an agreement?

13 A. Uh-uh.

14 MR. MURPHY: You've got to say no.

15 THE WITNESS: No, sir.

16 MR. FINGER: Bear with me one second,
17 Your Honor. I have it in a separate file, and I'm
18 wondering where it might be. Hand you a document
19 signed by the owners of Lot 1, 2 and 3. You've not
20 seen that before?

21 THE WITNESS: No, sir. I have not.

22 BY MR. FINGER:

23 Q. You were told about that, though; is that
24 correct?

25 A. No, I think we drew this up for

1 Mr. Bergman and he left and took care of this on his
2 own.

3 Q. Okay. You were aware that the owners of
4 1, 2 and 15 had agreed to go down to 30 feet?

5 A. Well, I don't know what -- I was told to
6 do this. And the reason I was told to do it, they
7 were trying to reach an agreement. Here again, we
8 got a boundary dispute. We got issues. And they
9 were trying to set up a right-of-way that would be
10 conducive to everybody. So I've never seen it, but
11 I knew they were working on something.

12 MR. FINGER: Okay. If we could have
13 that marked, please, as the next defendant's
14 exhibit?

15 JUDGE DUKES: Six? Okay. Chris, 6,
16 no objections?

17 MR. MURPHY: This hasn't been filed
18 or anything.

19 MR. FINGER: No, it has not.

20 MR. MURPHY: And the plat isn't
21 signed by Gasque. I mean, I don't have an objection
22 to it.

23 MR. FINGER: We have this as the plat
24 from August 18th, '04, which goes to the 30 feet as
25 the next defendant's exhibit.

1 JUDGE DUKES: So that would be 7.
2 Okay. And I think, Chris, you already addressed
3 that, right?

4 MR. MURPHY: Yes. That's fine.

5 JUDGE DUKES: All right. So --

6 MR. MURPHY: I have the plat as
7 Exhibit 6 and this is 7.

8 JUDGE DUKES: All right.

9 MR. FINGER: Correct.

10 JUDGE DUKES: We'll reverse them
11 then. Plat 6.

12 (MARKED DEFENDANT'S EXHIBIT NUMBERS 6
13 and 7.)

14 BY MR. FINGER:

15 Q. On Defendant's Exhibit 6 which is the plat
16 which shows the right-of-way going down to 30 feet?

17 A. Uh-huh.

18 Q. You have a note on there that this survey
19 does not match the plat of recorded. Are you
20 referring to -- what plat are you referring to
21 there?

22 A. I'm talking about the subdivision plat.

23 Q. You're talking about 15 at 31 which is
24 right below that; am I correct.

25 A. Yes, sir.

1 Q. And 15 of 31 is the original 1965 Wilson
2 plat?

3 A. Yes, sir.

4 Q. Okay. If we could go back to the --

5 A. Well, this plat, one more thing if you
6 notice, they're tie barring. So they're bringing
7 this -- they're tying on this, but it was never
8 finalized and it wasn't in my chain. It's being
9 added to Lot 1 and being added to Lot 15 if this was
10 ever fully executed and recorded.

11 Q. If there were ever deeds that --

12 A. Right.

13 Q. If this plat was ever --

14 A. This was -- this was a worksheet I did for
15 Mr. Bergman to see what could be done.

16 Q. Okay. You did a number of surveys for the
17 Bergmans; am I correct?

18 A. One or two, three maybe.

19 Q. Does that refresh your memory at all, a
20 letter from Mr. Bergman of February 4th that says
21 you did three for him?

22 A. Yeah. And we've talked about I think all
23 three of them.

24 Q. At least two of them. Thank you.

25 A. Yeah. But it's on the same piece.

1 Q. Right. And in plat Exhibit 6, you do not
2 refer to the Hussey plat in any fashion; is that
3 correct?

4 A. This is a worksheet.

5 Q. That was a very simple question.

6 A. Yeah. No, but the reason it doesn't, it's
7 a worksheet.

8 Q. Okay.

9 A. You see my coordinates and all my little
10 numbers. That's telling me we're in the middle of
11 figuring this out.

12 Q. Okay.

13 A. It's a worksheet.

14 Q. Okay. And most of your plats that I've
15 seen has a specific disclaimer about this is not the
16 result of any title search.

17 A. Usually, yes, sir.

18 MR. FINGER: Okay. With the court's
19 permission, I'm going to hand him what has
20 previously been marked as Plaintiff's 1-D.

21 JUDGE DUKES: All right.

22 BY MR. FINGER:

23 Q. This is the plat that you did; am I
24 correct?

25 A. Yes, sir.

1 Q. And it was done in '05, 11/28/05?

2 A. Yes, sir.

3 Q. Okay. The only plat that's referred to
4 here is, again, you refer to both plats in this one.
5 You refer to Wilson and Hussey?

6 A. That is correct.

7 Q. Okay. Why did you add the Hussey plat in
8 your reference to this when the prior plat did not?

9 A. On this one, I wanted to bring out the
10 point we did look at the right-of-way that was
11 represented on the Hussey plat as being angled.

12 Q. And, again, this plat 110 at 42, again,
13 says the survey doesn't match the plat of recorded?

14 A. Yes, sir.

15 Q. Correct? And under that phase plats of
16 subdivision do not agree?

17 A. Yes, sir.

18 Q. You then have -- you have removed -- you
19 have two areas of confusion still; is that correct?

20 A. That is correct.

21 Q. Okay. And you found a pipe. I'm looking
22 down at the bottom of Bostick Road where it
23 intersects Lot 1. It has a pipe found. Do you see
24 that? Right here.

25 A. Yes, sir.

1 Q. It's got a pipe found. And would that
2 pipe have been something that Wilson set, you set or
3 what?

4 A. I think it's one Wilson set because if you
5 take the distance from there to that pipe if you add
6 up that comes close to 110.

7 Q. Okay. So do you believe that on this plat
8 which is 110 at 42 where -- I'm showing you right
9 there where I'm pointing at pipe found, is that the
10 proper boundary for Lot 1 with a 60 foot
11 right-of-way?

12 A. No, sir.

13 Q. Why not?

14 A. That's the whole reason we're here. It's
15 -- it doesn't agree with 110. That corner out there
16 was in the roadway. You come down 110. I think
17 that matches the Wilson plat. And it matches -- it
18 doesn't match -- it does not match the H.F. Wilson
19 plat that's recorded. They call for a 96.3
20 dimension there.

21 Q. Okay.

22 A. So we knew we had issues happening then.

23 Q. And is it impossible between 1965 when
24 Wilson did his plat and when you did this plat in
25 2005 that the critical line moved because the survey

1 is to the critical line --

2 A. Well, the critical line may have moved.

3 Q. Right?

4 A. But with a slope that steep, I don't think
5 it's going to move much. And that ain't a distance
6 to the critical line. That's a distance to an iron
7 on the hill. The distance to the critical line is
8 51.98 feet further on out. And on your plat of
9 record it shows it 65 or it appears to be about 65.
10 And a critical line is subject to about three or
11 four foot differential. It depends on the day you
12 go out there to shoot it.

13 Q. So what is this plat supposed to
14 represent?

15 A. This plat --

16 Q. Plat being --

17 A. Here again --

18 Q. -- Plaintiff 1-D?

19 A. We know we've got a boundary issue.

20 Q. Right?

21 A. We know we've got confusion. I'm showing
22 that if I honored the 110 by the plat like you
23 talked about here that we found the corners. I
24 don't know what exhibit that was. And turn it 90
25 degrees as per this plat and ran out the distance

1 and put parallels lines, that would create this
2 area. Thus creating a gap between that and Bostick.
3 I know that can't happen.

4 So then we go up to 110 and come back to
5 96 as per the plat of record, the Bostick, that
6 creates the other. I'm pointing out two scenarios
7 that the Williamses were totally aware of when we
8 did the survey. The goal was this is to get it
9 cleaned up.

10 Q. All right. And my question is on this
11 plat, 110 at 42, where you have -- it says it
12 doesn't match the plat of record. It doesn't match
13 the subdivision plat, tell me where, in your
14 opinion, the Bostick Road boundary is for Lot 1?

15 A. For Lot 1, you would have to go and use
16 the senior line, come up 110 and come up 96 and come
17 perpendicular.

18 Q. Okay. And do you have anything
19 perpendicular here?

20 A. No, sir. This is a plat trying to clean
21 up. The only thing perpendicular here are the
22 90 degrees that runs out and generates the square.
23 I'm just having to point at because it's hard to
24 describe.

25 Q. I'm going to give you the next plat in the

1 series.

2 MR. FINGER: This one I believe is
3 in, but I don't know what -- let me get you a full
4 one because that is a short one. Let me give you
5 that one.

6 JUDGE DUKES: Let's see if we can
7 figure it out, just for the record. Is that --

8 MR. FINGER: 4/9/12. I think that
9 might be G, Your Honor.

10 MR. MURPHY: I think it is G.

11 JUDGE DUKES: So that would be
12 Plaintiff's 1 --

13 MR. FINGER: That is G.

14 MR. MURPHY: Yes, this is G.

15 MR. FINGER: It's G.

16 MR. MURPHY: That's correct. It's G.

17 JUDGE DUKES: Subpart G. Okay. Why
18 don't we just pencil a little P.1-G in the corner
19 there somewhere, if you don't mind.

20 THE WITNESS: P.1-G?

21 JUDGE DUKES: Yeah. Great. Thank
22 you so much.

23 BY MR. FINGER:

24 Q. All right. On P.1-G, this is a plat that
25 you did in April of 2012?

1 A. Yes, sir.

2 Q. And this plat was actually recorded at 134
3 at 115; is that correct?

4 A. Yes, sir.

5 Q. Okay. And in this one, you remove the
6 areas of confusion?

7 A. Yes, sir.

8 Q. Am I correct? This is an attempt to show
9 the Bostick 50 foot right-of-way --

10 A. This is --

11 Q. -- after the quit claims?

12 A. After the quit claim deeds, I was
13 instructed to create a plat that reflected the quit
14 claims.

15 Q. Okay. And, again -- on P.1-G, again, it
16 doesn't match the plat of record and it doesn't
17 match the subdivision plat; am I correct?

18 A. That is correct.

19 Q. And in this one you, again, refer to both
20 Wilson and the Hussey --

21 A. Yes, sir.

22 Q. -- right? And, again, not the result of
23 any title search at all?

24 A. No, sir. Just what's being provided by me
25 now by clients.

1 Q. Okay. Just one thing that -- not to be a
2 wise guy or trying not to be a wise guy. There was
3 never any doubt about Lot 1's boundary along the
4 dominant line running like this; am I correct?

5 A. That is correct.

6 Q. So why is -- why -- on this plat which is
7 110 at 42, why do you have that labeled as an area
8 of confusion? How could it ever have been an area
9 of confusion?

10 A. Well, was it ever conveyed to my client?
11 Because if you honor the parallel lines, it
12 generates a gap.

13 Q. In the deeds to your client?

14 A. Yeah, it refers to a lot that is
15 rectangular in shape.

16 Q. Right.

17 A. So I'm showing -- I'm trying to give you,
18 the lawyer, the public all the information I can.
19 It doesn't match.

20 Q. The deeds -- the first deeds out from the
21 Trasks to the owners of Lot 15 refer to Wilson's
22 1965 plat --

23 A. That is correct.

24 Q. -- right? So how could there be any area
25 of confusion?

1 A. The reason is usually as surveyors when we
2 find lines that differ from what's recorded, we
3 denote that they're different. Like if we find the
4 markers that we deem to be legitimate and true to be
5 100 feet apart, but yet there is some typo that says
6 they're 102 foot apart, I need to let you know that.

7 Q. Okay. I think I understand.

8 A. Because when it goes to the bank to borrow
9 money and they start doing their underwriting, they
10 are going to want to know why this plat doesn't
11 match the plat of record. And that's the story I'm
12 telling. There's no doubt there's issues on the
13 boundary here. The whole purpose of this plat was
14 trying to clean it up.

15 Q. Okay. Have you ever seen any plats from
16 Mr. Fanning on --

17 A. Yes, sir..

18 Q. Did that add to the confusion or fix the
19 confusion? Do you recall?

20 A. It just kind of added to everything.

21 Q. Just compounded the issues, is that what
22 you are saying?

23 A. Yes, sir, because -- and from what I've
24 learned today, if these property line people got
25 together and agreed to a 30 foot right-of-way -- and

1 then this I think came after that. I'm not -- I
2 don't remember.

3 Q. Okay. I'm handing you a copy of
4 Mr. Fanning's plat which is 12/6/05 recorded at 110
5 72.

6 MR. FINGER: That is not in, Your
7 Honor. That would need to be the next Defendant's.

8 THE WITNESS: Don't I get a whole
9 plat? I've got one if you don't. Okay. Thanks.

10 JUDGE DUKES: So that is going to
11 be --

12 MR. FINGER: Eight, I think.
13 Defendant's 8.

14 JUDGE DUKES: Defendant's 8. Chris,
15 you've --

16 MR. MURPHY: Yeah, no objection.

17 JUDGE DUKES: -- got that one? All
18 right.

19 MR. MURPHY: I don't have that one.

20 JUDGE DUKES: Oh, do you want to look
21 at it before we mark it?

22 MR. MURPHY: Yes.

23 THE WITNESS: I've got a more legible
24 one if you want it. It's big. We can read it.

25 MR. MURPHY: I think you referenced

1 this in your --

2 THE WITNESS: Can I go get it?

3 JUDGE DUKES: Yeah. Sure. Go ahead.

4 (Discussion off the record.)

5 JUDGE DUKES: Back on.

6 MR. FINGER: We'll mark this as 8.

7 MR. MURPHY: Yes, no objection.

8 JUDGE DUKES: All right. No

9 objection to Defendant's 8 which is -- what's a
10 brief summary of it? It's --

11 MR. FINGER: It is --

12 JUDGE DUKES: -- one more plat.

13 MR. FINGER: -- a plat by Laura
14 Fanning dated December 6, 2005, recorded in Plat
15 book 110 at Page 72.

16 JUDGE DUKES: Great. Thank you so
17 much.

18 (MARKED DEFENDANT'S EXHIBIT NO. 8.)

19 BY MR. FINGER:

20 Q. Okay. And you can flip that around, if
21 you would. What I am primarily interested in is in
22 the middle of Mr. Fanning's survey and Bostick Road.
23 He's got concrete markers found out in the middle of
24 this right-of-way?

25 A. Yes, sir.

1 Q. Do you have any explanation for that?

2 A. Well, that 94 feet could be the iron --

3 Q. Right.

4 A. -- which -- and then you've got -- it
5 could be a corner that Wilson set.

6 Q. Right.

7 A. Then we got another one -- an iron that is
8 40 feet across. Just --

9 Q. So if you would look at the first plat,
10 Mr. Wilson's plat which is 1-A which I believe is
11 Mr. Wilson's plat.

12 A. Yeah, 1-A.

13 Q. Mr. Wilson's plat actually shows a pipe
14 and a concrete marker in these two locations; does
15 it not?

16 A. I believe it does.

17 Q. Okay. So if we were following the Wilson
18 original subdivision plat, in all likelihood this
19 arc or this -- is that what you call these, an arc
20 or a curve?

21 A. Uh-huh.

22 Q. What do they call this? It would go from
23 here, match here, go through there and come up here,
24 right there where he found a rebar?

25 A. That is correct.

1 Q. And that would be a right angle going this
2 way? So in all likelihood, that where I've just put
3 my pen is the proper boundary from Lot 1?

4 A. That is the boundary that he represents.
5 The only thing I disagree with that boundary is that
6 we still -- we've grown 30 foot on the line along
7 Bostick. Now, this line purports to be 110. Now
8 we're up to 140. So that's part of the confusion.

9 Q. Okay. But in your opinion, the proper
10 line along Bostick Road right-of-way is shown where
11 I have -- roughly where I have my pen between
12 Wilson's pipe, Wilson's monument and this there; is
13 that correct?

14 A. I wouldn't use the word proper. I'm
15 saying it's one of those --

16 Q. Original. Original.

17 A. It's one of the scenarios --

18 Q. Okay.

19 A. -- that could fit.

20 Q. One of the scenarios. And that matches
21 the original subdivision plat except for the
22 distance along the dominant line?

23 A. And it probably won't match on the area
24 when you convey it.

25 Q. Okay. Very good. Thank you, sir.

1 MR. FINGER: I'm trying to move fast,
2 Judge. I'm sorry.

3 JUDGE DUKES: No. We've got two days
4 set aside for this. We're good. Don't worry. You
5 won't be here for two days.

6 BY MR. FINGER:

7 Q. And back to this scenario on Defendant's
8 8. If that is the proper line -- and I've just laid
9 my pen on it from pipe found, concrete marker found,
10 and a rebar found. If the lot line for Lot 1 is
11 there, then Mr. Summerall's fence is on his
12 property; am I correct?

13 A. I would have to see the plat. I don't
14 know where his fence is without looking at my plat.
15 It appears to be one of the scenarios. Not
16 necessarily his property.

17 Q. And we are now looking at your plat?

18 A. And this fence now --

19 Q. Let me finish my question.

20 A. Let me finish answering the first question
21 you gave me. He actually put his fence on an
22 additional ten feet.

23 Q. Correct.

24 A. So his fence is beyond what you would say
25 would be his property on that.

1 Q. And I'm looking at -- and I don't -- this
2 is Exhibit M?

3 A. Yes, sir.

4 MR. MURPHY: P.1-M.

5 BY MR. FINGER:

6 Q. P.1-M. These orange lines in P.1-M jive
7 with Mr. Wilson's original subdivision plat only
8 it's 10 feet -- it's 10 feet shrunk; am I correct?

9 A. I think so, yes, sir.

10 Q. Okay. So this would -- if, in fact, the
11 County deeded the owner of Lot 1 ten feet in the
12 right-of-way under that quit claim deed, and it was
13 a valid transaction of 10 feet, then these orange --
14 this orange line that I'm pointing to right here
15 shows the proper boundary of Lot 1; am I correct?

16 A. No, sir. No, sir, it does not.

17 Q. Why not?

18 A. The quit claim deeds emphatically talk
19 about a plat recorded in 110 on Page 42. It doesn't
20 talk about any of this other stuff. It talks about
21 a plat that's recorded that everybody has sat down
22 and talked about.

23 Q. Okay.

24 A. And then it talks about reserving a 50
25 foot cleared area, a strip and taking an area out of

1 the big triangle and the small triangle. So I as a
2 surveyor if I was just handed this, I would go
3 strike that line on the ground, read that and then
4 back it in. This is the plat that they conveyed by.
5 No other.

6 Q. Correct.

7 A. No other. We're not conveying by H.F.
8 Wilson. We're not conveying by anybody else. We're
9 conveying by this. They're agreeing to this.

10 Q. Show me on this plat, which is attached to
11 the quit claim deed -- show me where up to 3.38 feet
12 are?

13 A. All right. Listen to what they said. A
14 50 foot --

15 Q. No, answer my question. Don't tell me --

16 A. I'm going to show you after I tell you.

17 Q. Do you have the plat?

18 A. A 50 foot strip --

19 JUDGE DUKES: Well, hold on. Hold on
20 one second, Mr. Gasque.

21 BY MR. FINGER:

22 Q. Do you have the -- do you have the --

23 JUDGE DUKES: Just let him finish.

24 BY MR. FINGER:

25 Q. Do you have the quit claim deed that was

1 transferring the 3.38 acres or the 10 feet -- or the
2 10 feet?

3 A. Yes, sir.

4 Q. Which one do you have? You've got the
5 3.38?

6 A. I've got a quit claim deed.

7 Q. It's 3.38? Okay.

8 A. Okay.

9 Q. Show me where on your plat, if you
10 would --

11 A. It's --

12 Q. -- the 3.38 -- up to 3.38 acres.

13 A. Okay. First of all, it's not on this
14 plat. It has to be -- it has to be figured out.
15 This was the plat that was presented to them. The
16 County then wrote their quit claim deed. And what
17 they're telling you they want to maintain a 50 foot
18 strip coming 3.38 feet at this end and giving up 10
19 feet at that end.

20 Now, if you've got a pencil, I'll be glad
21 to sketch it on there for you. That would bring the
22 right-of-way down to 50 feet.

23 Q. So the 10 feet -- the quit claim on the
24 10 feet --

25 A. Is coming from them to the Melanie's. So

1 it comes out this way.

2 Q. So that is not -- the 10 feet is not even
3 shown on this plat?

4 A. The line that's being agreed to by the
5 quit claim doesn't show up on here.

6 Q. Okay.

7 A. They generate it by the written word. Now
8 we can back it up into here.

9 Q. Do you know whether that was ever done?

10 A. What's that?

11 Q. Was there ever a plat done that implements
12 these? This is P.1-G?

13 A. Yes, sir. You notice at L2 --

14 Q. Right.

15 A. -- 3.38.

16 Q. Okay.

17 A. L3, 9.94. That's right up there. That's
18 where the County is giving them 10 feet and the
19 Williamses are giving them 3.38 feet to create a 50
20 foot area. And that 50 foot area satisfied the
21 County because even if you hold your scenario and
22 hold the difference, it could be here. That cleared
23 everything to give them a good, clean right-of-way
24 and everybody agreed to at the time.

25 Q. Well, the reason why the County wants the

1 lines to be this way is because the owner of Lot 115
2 built over his boundary; is that correct?

3 A. He built over a line.

4 Q. He built over his line.

5 A. He built over the Chris --

6 Q. So the County wants to take property from
7 my client and not have to make this guy comply with
8 his boundary. Is that --

9 A. The County took --

10 Q. Is that your understanding?

11 A. If the County took any property, they took
12 it from the Williamses.

13 Q. And this plat you were referring to a
14 minute ago P.1-G where you tried to show this is the
15 result of the quit claims, again, you have the note
16 on here that this doesn't match Wilson's original;
17 am I correct?

18 A. It doesn't.

19 Q. Okay. Thank you. I may be about done.

20 And I'm sorry to be --

21 A. That -- you're --

22 Q. -- belabor the point. I wish I understand
23 more about surveying.

24 MR. FINGER: Thank you very much,
25 sir.

1 THE WITNESS: Am I dismissed?

2 MR. FINGER: I appreciate your
3 patience with me.

4 CROSS EXAMINATION

5 BY MR. MURPHY:

6 Q. Just a couple questions very briefly.

7 A. Thank you, sir.

8 Q. And, Mr. Gasque, you admit there was
9 confusion over the property lines?

10 A. Yes, sir. There were conflicting plats.
11 And there were confusion. You had neighbors. The
12 whole thing.

13 Q. And in 2011, did those quit claim deeds
14 address those issues?

15 A. In my opinion, they did. We took -- we
16 took the three property owners that could have any
17 say so on this one; the Bosticks, the County and the
18 Williamses. They were thinking about building on
19 this lot. Therefore, they needed to make sure it
20 was insurable. If you all all remember the turn
21 down when they started looking back at old plats,
22 getting what they wanted, make sure they had a good,
23 insurable footprint.

24 Q. Right. And if we look at the yellow lines
25 on Exhibit M, you were asked about if stuff would

1 jive with the markers and the dominant lines and the
2 areas and et cetera. Do those yellow lines that you
3 depicted, do they jive with all the data that you've
4 researched in this?

5 A: Well, they're almost a creation because
6 we're having to get a property line agreement
7 between the Williamses and the County. So -- and
8 this is what they agreed to.

9 Q. All right. And based on the all the plats
10 you saw before the 2011 and all of that stuff, does
11 that change your opinion on what the property lines
12 should be as they sit on Bostick Road?

13 A. No, sir. It's still a mess.

14 Q. And is it your opinion as an expert that
15 the lines on Bostick Road are depicted in the yellow
16 highlights or in the orange highlights?

17 A. As a result of the quit claim deeds and
18 everything, it's the yellow.

19 MR. MURPHY: Okay. Thank you.

20 That's all I have.

21 FURTHER DIRECT EXAMINATION

22 BY MR. FINGER:

23 Q. All right. So you're claiming that the
24 quit claim deeds result in the yellow lines on --

25 A. The yellow lines on --

1 Q. -- Exhibit M?

2 A. The yellow lines on my side of the
3 property for sure.

4 Q. And the orange lines are in accordance
5 with the original subdivision plat, plus the
6 ten feet; is that correct?

7 A. The 110 -- plus the 10 feet. It doesn't
8 agree with the original property line because I
9 disagree with the dimension of 110 down the side.
10 This now becomes a 140. If -- worst case, if you
11 honor the Christensen plat --

12 Q. Right.

13 A. -- and honor the quit claim deed --

14 Q. Right.

15 A. -- my right-of-way now is 80 feet.
16 Because they gave up their rights to that. Now, the
17 problem is here.

18 Q. On your plat, Exhibit M, with the
19 different colored lines, it shows Lot 15 at 114.7?

20 A. I show both of them, yes, sir.

21 Q. And that matches the Christensen revision
22 and corrects the Hussey problem; is that correct?

23 A. It doesn't correct the problem. All it
24 does is shrink Lot 15. If that right-of-way was way
25 don't here, it never pulled it across. They never

1 resurveyed this area --

2 Q. I understand.

3 A. -- to correct it.

4 Q. I understand. You said that.

5 MR. FINGER: No further questions.

6 Thank you, Your Honor.

7 MR. MURPHY: Nothing, Your Honor.

8 THE WITNESS: Am I free to go?

9 MR. MURPHY: You are.

10 MR. FINGER: I have no objection.

11 JUDGE DUKES: Yes. Thank you so

12 much.

13 (BREAK TAKEN)

14 JUDGE DUKES: Do you swear of affirm
15 to tell the truth, the whole truth, and nothing but
16 the truth so help you God?

17 THE WITNESS: I do.

18 JUDGE DUKES: Okay. Thank you. You
19 can have a seat. And if it's more comfortable for
20 you, however you want to be. And please state your
21 whole name for the record.

22 THE WITNESS: Zyad Khalil, Z-y-a-d,
23 K-h-a-l-i-l.

24 MR. MURPHY: And Sam Khalil, I said
25 Khalil. We would tender him as an expert in land

1 surveying.

2 MR. FINGER: Just limited voir dire
3 if I could, please?

4 JUDGE DUKES: Please, go ahead.

5 VOIR DIRE EXAMINATION

6 BY MR. FINGER:

7 Q. How long have you been licensed in South
8 Carolina?

9 A. 1992.

10 Q. And have you ever had any LLR or anybody
11 have any disciplinary actions against you?

12 A. No. I think one time because I didn't set
13 some markers in 2001.

14 Q. But no pending --

15 A. No.

16 Q. -- at the current time?

17 A. Not -- nothing.

18 Q. Have you ever testified in court before?

19 A. Several times.

20 MR. FINGER: Okay. No problem, Your
21 Honor.

22 JUDGE DUKES: All right. I'll find
23 that he is an expert in the field of land surveying.

24 ..(DIRECT EXAMINATION)

25 BY MR. MURPHY:.

1 Q. Sam, you're familiar with the property
2 owned by Melanie Williams or formerly owned by
3 Melanie and Leonard Williams?

4 A. Yes.

5 Q. All right. And can you tell the Court how
6 you got involved with this whole thing?

7 A. The County asked me to see if there's any
8 problems with Bostick Road.

9 Q. And when you said -- what date or
10 approximately what year did you get involved, that
11 the County asked you to do this?

12 A. 2016, I think. Job number started in May
13 3rd, 2016.

14 Q. All right. And you did some work?

15 A. Yes.

16 Q. Okay. And could you -- prepared --

17 MR. MURPHY: We could mark this as
18 Plaintiff's Number 2.

19 MR. FINGER: Without objection.

20 JUDGE DUKES: All right. Plaintiff's
21 2.

22 (MARKED PLAINTIFF'S EXHIBIT NO. 2.)

23 BY MR. MURPHY:

24 Q. And do you call that a plat or a survey,
25 Number 2?

1 A. It's a plat.

2 Q. All right. Now, could you tell the Court
3 what you found or what you prepared that's depicted
4 in that plat?

5 A. Well, before we went there we pulled all
6 the deeds and the plats as shown on my plat. And
7 going through the deeds there's problems with the
8 deeds. And out in the field to show which one is
9 which and that's how I came up with this plat,
10 basically, the discrepancies in the deeds.

11 Q. All right. So you searched the chain of
12 title for this property?

13 A. Yes.

14 Q. All right. And you found some discrepancy
15 in the deeds?

16 A. Yes.

17 Q. All right. And you -- did you make an
18 opinion as to what the lines should be or not or is
19 that something that's above your pay grade?

20 A. It's above my pay grade. It's a legal
21 issue.

22 Q. All right. All right. So could you tell
23 the Court what you found, what lines are depicted in
24 this survey -- or this plat, that you did?

25 A. Well, the north line is agreed on as being

1 the boundary line between the Bostick and the
2 subdivision which is along that ditch.

3 Q. All right. And now we are talking about
4 the Summerall property?

5 A. Then upon the plat and the deed by
6 agreement between the previous owners, I believe
7 that's the Williamses, and the County.

8 Q. That was the 2011 quit claim deed?

9 A. Yes.

10 Q. Okay. And what line is shown by agreement
11 did you find?

12 A. Is this line right here.

13 Q. All right. All right. Go on.

14 A. Then after that upon another deed was
15 written by Frampton Harper referencing both plats,
16 David Gasque's plat and David Youmans' plat.

17 Q. All right. And that was --

18 A. And these two plats, they are in conflict.

19 Q. All right. And that plat was after the
20 2000 -- or that deed was after 2014?

21 A. 2014, I believe.

22 Q. All right. And what line does that 2014
23 deed show?

24 A. It's the one, see, bearing 12-48-29.

25 Q. And this hatched area is -- what does that

1 represent?

2 A. That's my opinion, the differences between
3 the two boundary lines. This on the two plats.

4 Q. All right. But if you look at the 2011 --
5 the agreement we have, this lower line --

6 A. Yes.

7 Q. -- and then the Frampton Harper line
8 afterwards is depicted on the top, the upper line?

9 A. Yeah. But the Frampton Harper deed
10 referenced both plats.

11 Q. Okay. Got you. All right. And did you
12 find any other discrepancies in the lot lines?

13 A. Well, I mean, on Lot 2, I find there's
14 discrepancies in there with the right-of-way.
15 There's on plat of record, I think, down in mortgage
16 Book 715, 12. I think that's David Gasque.

17 Q. And what is this triangular curved line?

18 A. That shows the line according to the
19 original subdivision line.

20 Q. Okay.

21 A. And the line as shown per plat in mortgage
22 book 715, 12.

23 Q. All right. And were you asked to do
24 anything else as part of this assignment by the
25 County?

1 A. They asked me to establish a boundary
2 line. I said go to court.

3 Q. Okay. And that was the extent of your
4 working with the County on this project?

5 A. Yes.

6 MR. MURPHY: All right. That's all I
7 have. Thank you.

8 CROSS EXAMINATION

9 BY MR. FINGER:

10 Q. Sir, just a couple questions. You titled
11 this plat as a right-of-way discrepancies.

12 A. Yes.

13 Q. Yes. Okay. And on Lot 1, we just had the
14 last surveyor testify about this boundary here as
15 being 110. You got 120.

16 A. 122.

17 Q. To this marker right here?

18 A. Okay. 110. Let me pull that plat first.

19 Q. If you would just let us know what plat
20 you're referring to, if you would, please? This is
21 Mr. Gasque's plat which is recorded in 134 at 115.

22 A. Okay. It's 108 plus 2.3.

23 Q. Okay.

24 A. That's 110. And what -- that's not --
25 that's your 120.

1 Q. Okay. Got it. Okay. Thank you. And
2 back to your plat for a second, if we could.
3 Looking down here about what plats you referred to.
4 Okay?

5 A. Yes.

6 Q. You referred to the original subdivision
7 plat; is that correct?

8 A. Yes.

9 Q. That was Mr. Wilson's plat?

10 A. I've got a copy of Wilson's plat.

11 Q. Okay. And you looked at Mr. Hussey's
12 plat?

13 A. I've got that one, too.

14 Q. You looked at Mr. Christensen's plat --

15 A. Yes.

16 Q. -- which was revised 15?

17 A. Yeah.

18 Q. You have a reference in here, plats for a
19 Book 826 at 1079. I don't know about any plat books
20 that go that high. What is that?

21 A. That's a mortgage or a deed. Sometimes
22 the plat is in a mortgage. It's not in a plat book.
23 Same thing when I find the plat on Lot 2. It's in
24 the mortgage book.

25 Q. All right. Above it you have mortgage

1 book. So you think this 826 at 1079 is some type of
2 deed book record?

3 A. I need to look.

4 Q. Okay. No problem. I was just trying to
5 figure it out. I'll move on. No problem.

6 A. Okay. All right.

7 Q. Back to the plats that you indicate you
8 referred to. If I could have you look at that. You
9 did not refer to plat 15 at 31. That's not listed
10 there; am I correct?

11 A. No.

12 Q. So you did not even refer to the original
13 subdivision plat by Mr. Wilson?

14 A. Yeah, he --

15 Q. How come you didn't list it on your --

16 A. I think I listed it in a plat. I got the
17 original plat from Mr. Wilson.

18 Q. That's Mr. Wilson's original plat?

19 A. Yes.

20 Q. Okay.

21 JUDGE DUKES: Wow. That's a good
22 copy.

23 THE WITNESS: This is not a copy or
24 Xerox. This is the original plat.

25 BY MR. FINGER:

1 Q. Okay. And on the original he shows that
2 he has set various markers; am I correct?

3 A. Yes.

4 Q. Two markers here?

5 A. Yes.

6 Q. Two markers here?

7 A. Uh-huh.

8 Q. A pin and a monument? Monument, monument,
9 monument and then two monuments here; is that
10 correct?

11 A. Yes.

12 Q. And did you do any on-the-ground survey
13 work or did you --

14 A. Yes.

15 Q. You did?

16 A. Yeah.

17 Q. Did you find all of those markers from
18 Mr. --

19 A. No.

20 Q. You did not?

21 A. I found a marker right here.

22 Q. Actually, this marker that you're pointing
23 to has been moved out to the middle of here; isn't
24 that correct?

25 A. Okay. Well --

1 Q. Am I correct?

2 A. I don't know. I don't know. When you add
3 these distances, this lot measurement changed four
4 times.

5 Q. Okay.

6 A. 156, first time. Second time, that plat
7 is 198. David Gasque plat, 177. David Youmans
8 plat, 2016 -- I mean, 216.

9 Q. Okay. So that line changed a number of
10 times. Okay.

11 A. Yes.

12 Q. Do you have an opinion -- have you seen
13 the -- you've seen the Hussey plat; is that correct?

14 A. Yeah. That one, too.

15 Q. Okay. Do you have the original Hussey
16 plat?

17 A. No, I don't have the original.

18 Q. And the business that you own ended up
19 with Mr. Wilson's records; am I correct? Is that
20 how you got this original plat?

21 A. It was in the folders.

22 Q. It was in the folders?

23 A. When I bought the company --

24 Q. When you bought the company?

25 A. -- it was in the files.

1 Q. Okay. Okay. And you have the --

2 Mr. Hussey's plat from 1967?

3 A. Yes.

4 Q. Okay. And that's it there; am I correct?

5 A. Yes.

6 Q. Okay. And would you agree -- strike that.

7 Anything else with this one?

8 UNKNOWN SPEAKER: Well, I would just

9 point out that there's a -- maybe a print of the

10 original plat --

11 MR. FINGER: Okay.

12 UNKNOWN SPEAKER: -- but not the

13 actual original.

14 BY MR. FINGER:

15 Q. Yes, so this is a print of the original.

16 Not the actual original?

17 A. Yes.

18 MR. FINGER: Okay. No further

19 questions. Thank you, sir.

20 THE WITNESS: Okay.

21 MR. MURPHY: Nothing, Your Honor.

22 You may be excused unless you have any questions.

23 JUDGE DUKES: No. No questions for

24 him. Thank you so much. You may be excused.

25 MR. MURPHY: And our next witness --

1 COURT REPORTER: We've had so many of
2 these plats. Could we make sure that my plats are
3 still here.

4 MR. MURPHY: Yes.

5 JUDGE DUKES: Don't leave. No one
6 can leave until Deborah is satisfied that she has --

7 (OFF RECORD DISCUSSION)

8 MR. MURPHY: And at this point we
9 will call Ms. Vicki Gault.

10 JUDGE DUKES: A lot of obstacles in
11 there. Get you to hold your right hand up for me.
12 Do you swear or affirm to tell the truth, the whole
13 truth, and nothing but the truth so help you God?

14 THE WITNESS: I do.

15 JUDGE DUKES: Please state your whole
16 name for the record.

17 THE WITNESS: Vicki Lynn Gault.

18 MR. MURPHY: And we would tender Ms.
19 Gault as an expert in title abstraction?

20 JUDGE DUKES: Terry?

21 MR. FINGER: I don't think that's a
22 recognized field of expertise.

23 THE WITNESS: Well, I think it should
24 be.

25 MR. FINGER: So I would object. I'm

1 not saying it shouldn't be, but I don't -- I don't
2 think it's a recognized field.

3 JUDGE DUKES: Is it not? I thought
4 practically anything electrical work, dog working to
5 all -- I thought you could be an expert in --

6 MR. MURPHY: In anything. It's --

7 JUDGE DUKES: -- anything.

8 MR. MURPHY: Outside the -- her
9 expertise is outside the expertise of the normal
10 layperson.

11 MR. FINGER: Short voir dire, then,
12 please?

13 JUDGE DUKES: Yeah. Please, go
14 ahead.

15 VOIR DIRE EXAMINATION

16 BY MR. FINGER:

17 Q. Vicki, how long have you been doing this
18 here in Beaufort County?

19 A. Over 30 years.

20 MR. FINGER: I withdraw my -- any
21 objection. And you have my condolences.

22 JUDGE DUKES: All right. Ms. Gault
23 will be an expert in the field of title abstracting.

24 DIRECT EXAMINATION

25 BY MR. MURPHY:

1 Q. All right. Ms. Gault, can you -- first of
2 all, when was the first time we met, you and I met?

3 A. Several weeks ago.

4 Q. All right. And before that, had we had
5 any dealings with each other; do you recall?

6 A. No. None whatsoever.

7 Q. All right. And tell me how you got
8 involved in this project of this property?

9 A. One of my clients asked me to do the title
10 search.

11 Q. Okay. And who was that client?

12 A. Tab Bendle.

13 Q. All right. And Tab -- Tom Bendle --

14 A. Tom Bendle, uh-huh.

15 Q. -- works for -- works at Howe Gibson and
16 Hughes?

17 A. Yes, he does.

18 Q. All right. And what specifically did he
19 ask you to do?

20 A. He asked me to do a full title search to
21 figure out who owned Lot 1?

22 Q. All right. And did you do that?

23 A. Yes, I did.

24 Q. All right. And tell the Court how you
25 went about doing that title search or that abstract?

1 A. Well, I went back 40 years to establish
2 the change of title.

3 Q. And you got to -- I know it's -- you are
4 looking at me, but tell the Judge.

5 A. I'm so sorry.

6 JUDGE DUKES: That's all right. I'm
7 listening.

8 THE WITNESS: And it's difficult --

9 JUDGE DUKES: It's hard in this
10 courtroom.

11 THE WITNESS: I have braces and I'm
12 still learning how to talk all over again.

13 JUDGE DUKES: No problem. I can hear
14 you. You are doing a great job.

15 THE WITNESS: Yes. I established a
16 40-year chain of title and based my information on
17 the public records and presented the abstract to the
18 attorney.

19 BY MR. MURPHY:

20 Q. And do you have an opinion on what the
21 property lines are as -- with regard to Lot 1?

22 A. I do not have an opinion --

23 Q. All right.

24 A. -- other than what's of public record.

25 Q. And what did the -- did you find in the

1 public records?

2 A. The public records told me that the quit
3 claim deeds from Williams to the County and the
4 County to Williams established a 50-foot boundary
5 line for the Bostick Road leaving the remainder to
6 the owner of Lot 1, which was Williams.

7 Q. All right. And when you talk about those
8 quit claim deeds, those are the 2011 quit claim
9 deeds?

10 A. Correct.

11 Q. All right. Now, you were here for David
12 Gasque's testimony?

13 A. Uh-huh.

14 Q. And you got to say yes.

15 A. Yes.

16 Q. And he talked about certain lines as to
17 Bostick Road, correct?

18 A. Yes.

19 Q. And he also talked about some triangles
20 that were deeded from the County to Melanie Williams
21 and Leonard Williams?

22 A. Yes.

23 Q. And do the public records -- did you find
24 that to be consistent with the public records?

25 A. Yes, I did.

1 Q. All right. And is there anything that
2 Mr. Gasque said that differed from the public
3 records that you found?

4 A. No.

5 MR. MURPHY: That's all I have.

6 Thank you.

7 CROSS EXAMINATION

8 BY MR. FINGER:

9 Q. You tracked all the deeds and provided
10 copies of all the deeds; am I correct?

11 A. Yes.

12 Q. And, in fact, the first deed from Trask
13 out -- and I have your search if you need it.

14 A. Good.

15 Q. The first deed from Trask out to a third
16 party of Lot 1 referred to Plat Book 15 at 31; is
17 that correct?

18 A. That is correct.

19 Q. And 15 at 31 is the original subdivision
20 plat by Mr. Wilson in 1965?

21 A. Uh-huh. Correct.

22 Q. So even though your search started in '78,
23 you were -- you went back to look at the original
24 plats; am I correct?

25 A. Yes.

1 Q. Okay. So it's clear that the owners of
2 Lot 1 have consistently had their underlying title
3 based upon the depiction in Plaintiff 1-A which is
4 Mr. Wilson's plat at 15 and 30 -- recorded at 15,
5 Page 31?

6 A. I believe so. If I could look at my title
7 search, I can --

8 Q. And I may have --

9 A. Thank you.

10 Q. -- taken a deed or two out. And if I
11 have, I apologize.

12 A. Yes. You are correct.

13 Q. That's correct?

14 A. Uh-huh.

15 Q. Okay. Thank you.

16 JUDGE DUKES: Is the deed a part of
17 the record somewhere? Do we have those deeds in the
18 record?

19 MR. MURPHY: No.

20 JUDGE DUKES: Okay.

21 MR. FINGER: But we will make sure we
22 get those for you, Judge.

23 BY MR. FINGER:

24 Q. Is a copy of the first deed out from Trask
25 in here?

1 A. A copy of the deed or --

2 Q. Yes. Could you give the Court the
3 recording information on the first deed out --

4 A. Certainly..

5 Q. -- from Trask?

6 A. Actually, it's not on my title search.
7 However, it may be on my notes.

8 Q. Okay.

9 A. Which I don't have with me.

10 Q. Bear with me one second. Here is a deed
11 from August 30th of 1969. Does that jive what
12 your notes show?

13 A. I don't have my notes with me.

14 Q. Okay.

15 A. But I could take a look at it. See if it
16 jogs my memory.

17 Q. Thank you.

18 A. Yes.

19 Q. Okay. And that refers to in the property
20 description at Plat Book 15 at 31 --

21 A. Correct.

22 Q. -- am I correct?

23 A. Uh-huh. Yes.

24 MR. FINGER: Since the Court
25 inquired, we would -- Judge, we would put this in as

1 the next Defendant's exhibit, please.

2 MR. MURPHY: No objection.

3 JUDGE DUKES: All right. Thank you.

4 I've lost track of the number now.

5 COURT REPORTER: Nine.

6 JUDGE DUKES: Exhibit 9.

7 (MARKED DEFENDANT'S EXHIBIT NO. 9.)

8 MR. FINGER: Marked as Defendant's
9 Exhibit 9, Your Honor. And that's the first deed
10 out from Trask on Lot 1.

11 THE WITNESS: Correct.

12 BY MR. FINGER:

13 Q. As part of your work, did you look at any
14 deeds to Lot 15?

15 A. No, I did not.

16 Q. Across the right-of-way?

17 A. No, I did not.

18 Q. And you did review the quit claim deeds;
19 am I correct?

20 A. Yes, I did.

21 Q. I think I even put little stickers on the
22 side there. Williams to County, County to Williams.
23 Those are the two quit claim deeds?

24 A. Yes.

25 Q. And attached to those deeds was a plat?

1 A. Correct.

2 Q. Correct? By Mr. Gasque?

3 A. Uh-huh. Correct.

4 Q. And those plats specifically show on their
5 face that they do not match the subdivision --
6 original subdivision plat, correct?

7 A. Correct.

8 Q. Okay. And you don't have an opinion as to
9 what property was actually transferred by those two
10 quit claims, do you?

11 A. Had I done this --

12 Q. Right.

13 A. -- for the purchaser, yes, I would have
14 had an opinion.

15 Q. Okay.

16 A. Buyer beware.

17 Q. Buyer beware? There's issues and
18 problems?

19 A. Uh-huh. Yes.

20 Q. Okay. Thank you. Also, in your -- in
21 your title package are some deeds from Trask and the
22 Trask Estate to the County. And, again, I have
23 stickers on them. I think they are from 2005, if I
24 recall --

25 A. Correct.

1 Q. -- correct? Now, assuming that Trask had.
2 previously by Defendant's Exhibit 9 transferred some
3 of that property in that 60 foot right-of-way, they
4 can only transfer under these 2005 deeds what they
5 still had; is that -- am I correct?

6 A. Yes, you are correct.

7 MR. FINGER: Okay. All right. Thank
8 you. No further questions. Thank you very much.

9 MR. MURPHY: Nothing, Your Honor.

10 JUDGE DUKES: Thank you so much.

11 MR. FINGER: No problem with this
12 witness being excused, Your Honor.

13 JUDGE DUKES: I'm sorry?

14 MR. FINGER: I have no problem with
15 this witness being excused.

16 JUDGE DUKES: Oh, yes. Thank you so
17 much.

18 MR. MURPHY: You are done. Just send
19 me a bill. Thank you so much. And, Judge, that
20 would be our case.

21 JUDGE DUKES: All right. Any
22 motions?

23 MR. FINGER: Your Honor, if you could
24 just give me just one second.

25 JUDGE DUKES: Yeah. Why don't we

1 just take a break for a minute --

2 MR. FINGER: Okay.

3 JUDGE DUKES: -- and then we'll come
4 back and we'll --

5 MR. FINGER: Good. Let me get my
6 thoughts --

7 JUDGE DUKES: -- figure out what
8 the --

9 MR. FINGER: Thank you very much.

10 JUDGE DUKES: -- part two is going to
11 be.

12 MR. FINGER: Okay.

13 JUDGE DUKES: So we'll break for
14 about ten minutes.

15 (BREAK TAKEN)

16 JUDGE DUKES: Back on. The Plaintiff
17 had rested. Mr. Finger, happy to hear from you,
18 sir.

19 MR. FINGER: Yes, Your Honor. The
20 Defendant would move for a directed verdict on the
21 grounds that the Plaintiff has failed to prove by
22 the greater weight of the preponderance of evidence
23 that my client has trespassed on County property in
24 any fashion. That was cause of action Number 1.
25 That he has created a nuisance in any fashion. That

1 that is cause of action Number 2. Or that there is
2 the right to any injunctive relief which is the --
3 essentially the third cause of action.

4 It is clear from the testimony even taken
5 in the light most favorable to the Plaintiff that
6 this is a -- perhaps a confused mess. There's been
7 no proof that my client even has a fence on County
8 property in any fashion.

9 I think the only proof that we may have is
10 if we're looking at Exhibit M which is Mr. Khalil's
11 and maybe Mr. -- I think it's Mr. Khalil's.

12 JUDGE DUKES: No, I think it's Mr.
13 Gasque's.

14 MR. FINGER: No, it's Mr. Gasque.
15 Mr. Gasque's. And I specifically asked him if the
16 orange lines matched with the original configuration
17 set forth in the 1965 main plat. He said, yes, they
18 do except for the distance along the top back to the
19 bank of the Marshes of Battery Creek is different.
20 But other than that, he said, it jived exactly with
21 the original subdivision plat from 1965 from
22 Mr. Wilson.

23 The expert testimony given to the Court so
24 far is that there was no opinion given by Mr. Khalil
25 at all. He just dodged any opinion at all. He said

1 it's a confusing situation. Essentially Mr. Gasque
2 said the same thing. He said it probably more
3 artfully than anything because in a bunch of his
4 plats he says there are two areas of confusion.

5 Ms. Gault on the title search said that
6 Lot 1 was originally deeded out pursuant to the
7 Wilson 1965 plat. And that as a result of her
8 looking at the quit claim deeds, she would have told
9 any buyers to beware. And that's -- that is our
10 motion for directed verdict at this point, Your
11 Honor.

12 JUDGE DUKES: Thank you so much.
13 Happy to hear from you, sir.

14 MR. MURPHY: Yeah. Thank you, Your
15 Honor. Judge, in evidence is the 2005 quit claim
16 deed for the 60 foot right-of-way from the Trasks to
17 the County. So that eliminates all issues with
18 regard to ownership prior to 2005. And then we have
19 the quit claim deeds in 2011 which was an agreement
20 between the Melanie Williams and the -- and the
21 County to establish the 50 foot right-of-way which
22 David Gasque clearly testified if you look at those
23 agreements you have the yellow lines.

24 And on Exhibit M, the fence is showed
25 outside the yellow lines which would be County

1 property. And that would be consistent with what
2 Josh Gruber said was the 50 foot right-of-way
3 necessary for any development. So clearly that is
4 the question of fact.

5 And Gasque testified if you look at the
6 2011 quit claim deeds you have one set of lines. If
7 you don't, you've got another set of lines.

8 JUDGE DUKES: The motion, however,
9 had to do with -- were there amended summons and
10 complaint or are we dealing with one summons and
11 complaint.

12 MR. MURPHY: In terms of -- I agree
13 there is no nuisance. But in terms of the trespass,
14 there is -- the fence is on County property
15 according to Exhibit M and David Gasque's and Vicki
16 Gault's testimony.

17 And what Khalil -- Khalil did not give an
18 opinion. He simply read the public records and
19 interpreted the 2011 deeds and the chain of title.
20 And said -- left it to the court's decision.

21 JUDGE DUKES: So the plats -- let's
22 see. The first cause of action is trespass.

23 MR. MURPHY: Yes.

24 JUDGE DUKES: And did I understand
25 you just sort of conceded on that one or not?

1 MR. FINGER: I conceded on the
2 nuisance.

3 MR. MURPHY: No, the nuisance.

4 JUDGE DUKES: Nuisance, okay.

5 MR. MURPHY: We'll abandon the
6 nuisance.

7 JUDGE DUKES: Yeah. Because is the
8 injunctive relief intended to be a separate --

9 MR. MURPHY: No. Well, that's tied
10 to the trespass. We're asking for the --

11 JUDGE DUKES: Right.

12 MR. MURPHY: Injunctive relief is the
13 right to remove the fence.

14 JUDGE DUKES: Got you.

15 MR. MURPHY: That we think is on
16 County property.

17 JUDGE DUKES: Well, I mean, in
18 essence, it's a contested quiet title action, I
19 mean, is really what we've got.

20 MR. MURPHY: Really, yes, I agree
21 with that.

22 JUDGE DUKES: So because it's sort of
23 not -- and I understand how these work. You put
24 together what you've got at the time and then it
25 develops into something else. I mean, I'm --

1 because it does seem more like a quiet title action
2 than a trespass action because there is enough
3 confusion certainly to color a title with all the
4 deeds and everything.

5 So let me get rid of for now the nuisance
6 action which, again, I understand the County
7 doesn't -- did I get that right?

8 MR. MURPHY: That's correct.

9 JUDGE DUKES: Nuisance action?

10 MR. MURPHY: Yes, that's correct.

11 JUDGE DUKES: And, you know, the
12 standard, obviously, is very high for directed
13 verdict at this stage. So it's probably enough with
14 giving you the right to make that motion again if
15 you'd like at some point.

16 MR. FINGER: Thank you, Your Honor.

17 MR. MURPHY: And, Judge, I would also
18 ask for some findings of fact that I don't
19 anticipate will be contested. Or maybe some
20 directed verdict motions. And that is that the 2011
21 deeds fell -- fall within the chain of title.
22 There's no question about that. There's also been
23 no actions to set aside those 2011 deeds. Which
24 were by agreement between the County who testified
25 the intent was to fix the right-of-way lines and

1 Melanie and Leonard Williams who are not here. But
2 testimony through Gasque and the -- and Josh Gruber
3 where they understood exactly what was going on.

4 Mr. Summerall was not a party in any way
5 to that transaction. Therefore, he can't interpret
6 or say that the two parties that made the agreement
7 somehow didn't know what they were doing.

8 JUDGE DUKES: Let me -- let me ask
9 you this because, of course, the Plaintiff has
10 rested. I'm not sure if I disagree with anything
11 you just said. Mr. Finger might not either; but
12 isn't the appropriate way to get at that in case
13 Mr. Summerall begins testifying as to his opinion of
14 what the agreement between the County and the
15 Williamses was and --

16 MR. MURPHY: I don't think --

17 JUDGE DUKES: -- can certainly attest
18 to that.

19 MR. MURPHY: -- he has standing to
20 testify about that at all.

21 JUDGE DUKES: I know. What I'm
22 saying -- well, without ruling ahead of time --

23 MR. MURPHY: Right.

24 JUDGE DUKES: What I'm saying is if
25 that comes up then we can deal with that at the

1 appropriate time?

2 MR. MURPHY: Yes. And, again, this
3 is equitable. It's kind of confusing about -- it's
4 questions of fact, but I just want to put that on
5 the record.

6 MR. FINGER: The testimony will
7 ultimately show and the recorded deeds that are
8 already in the chain of title show that Williams
9 after the 2011 deeds to the County back and forth,
10 the Williamses deeded that same property to my
11 client saying that I'm not sure what we deeded
12 there. But there's a specific deed from those folks
13 to my clients, quit claims, on the .02 and .07 in
14 Gasque's areas of confusion.

15 JUDGE DUKES: Right. And I'm
16 assuming -- I mean, we've got those deeds, the
17 County back and forth deeds are in the chain of
18 title.

19 MR. FINGER: Right.

20 JUDGE DUKES: So I haven't heard
21 anything or seen anything in the pleadings that
22 those deeds, as Mr. Murphy just said, are challenged
23 at some point after the fact other than the fact
24 that they're confusing and the plat that's attached
25 at them, I would think wouldn't have been the plat

1 that was attached to them. It would have been the
2 subsequent plat that actually accomplished what was
3 intended. But that's just me. And that may or may
4 not make any difference.

5 But they could only transfer out what at
6 that point they owned. And so at some point, we'll
7 just try to put it all together. And I'll try to
8 figure it out.

9 MR. MURPHY: Yes, sir.

10 JUDGE DUKES: But I think
11 Mr. Murphy's point was he's anticipating a time when
12 the current owner will attempt to testify as to what
13 the intent of the prior owners was and we'll cross
14 that bridge when we come to it.

15 MR. MURPHY: And the point is he
16 purchased the property in 2014. And whatever
17 transfer was there if the deeds were confusing to
18 him, if they were in Chinese or German or whatever,
19 it doesn't matter. They say a certain thing. And
20 that's what the -- he bought that property subject
21 to those quit claim deeds.

22 And, thus, I think there's no question of
23 fact as to that -- the validity of those deeds
24 within the chain of title.

25 JUDGE DUKES: I think they probably

1 affect the chain of title. What exactly they end up
2 doing, I guess is what you all are going to try to
3 explain to me at the end of this. And we'll about.
4 But I don't disagree they're important documents.
5 And I think probably Mr. Finger would agree with
6 that as well. What they do exactly I don't know. I
7 have to figure it all out. You all have been
8 looking at this for years.

9 MR. MURPHY: Yes, sir.

10 JUDGE DUKES: So we'll figure it out.
11 So I'm not -- if your motion is -- they're already
12 exhibits. I'm not sure what --

13 MR. MURPHY: Right. So I was asking
14 for specific findings of fact as to the exhibits,
15 but I am preserved and we can we readdress those
16 motions at the end of the --

17 JUDGE DUKES: Okay. Okay. Let's do
18 that then. All right. So we've dealt with the
19 directed verdict motion which is granted in part,
20 denied in part with leave to re-bring. And I think
21 that's everything on that. So Mr. Finger, call your
22 first witness, please.

23 MR. FINGER: Mr. David Youmans,
24 please.

25 JUDGE DUKES: Welcome, sir.

1 THE WITNESS: Good morning.

2 JUDGE DUKES: We've got lots of
3 surveying talents who have been through here today.
4 Everyone's been either mentioned or been here. So
5 do you swear or affirm to tell the truth, the whole
6 truth, and nothing but the truth so help you God?

7 THE WITNESS: I do.

8 JUDGE DUKES: All right. State your
9 whole for the record, please.

10 THE WITNESS: David Samuel Youmans.

11 MR. FINGER: And we would tender him
12 as an expert.

13 MR. MURPHY: No objection.

14 MR. FINGER: Thank you.

15 JUDGE DUKES: All right.

16 DIRECT EXAMINATION

17 BY MR. FINGER:

18 Q. You started your surveying work in about
19 1969. You've been licensed since 1983, correct?

20 A. Correct. Yes, sir.

21 Q. And the majority -- would it be fair to
22 say the majority of your business is here in the
23 Beaufort County area? Beaufort --

24 A. Correct. Yes, sir.

25 Q. -- and the County area? Okay. And I

1 believe through your various business relationships
2 and establishments, you have had the opportunity to
3 look at or acquire all of Mr. Wilson's old files; am
4 I correct?

5 A. We have most of them.

6 Q. Most of them? Okay.

7 A. I don't know if we have them all or not.
8 It's hard to tell because his index is so screwy.

9 Q. Okay.

10 A. If you don't know the file number, it's
11 kind of hard to find one.

12 Q. Okay. And you also have -- you worked
13 with Trogon, Junior for a number of years; is that
14 correct?

15 A. Yes, sir, I did.

16 Q. And you have the Trogon files also --

17 A. Correct.

18 Q. -- in your possession?

19 A. Yes, sir.

20 Q. Okay. Now, you have been asked to review
21 this situation by my client; am I correct?

22 A. Correct. Yes, sir.

23 Q. And as part of your review, could you just
24 generally tell the Court what you've done?

25 A. As far as the review goes, I went back

1 through all the records that I have in my file
2 pertaining to the Lot 1, Block D in Salem
3 Subdivision and the right-of-way associated with it.
4 And it's my finding that the plat done by Mr. Wilson
5 recorded in Plat Book 15 at 31 is the senior
6 transaction out of this Trask property, Salem
7 Plantation Subdivision.

8 That has very much significance because
9 it's a senior right. You don't tamper with the
10 senior rights.

11 We also found several monuments placed by
12 Mr. Wilson when we did the survey. We surveyed it
13 first in '04 for the Bergmans. And then for
14 Mr. Summerall in '14, we found most of the same
15 monuments. Some along the northern line, excuse me,
16 where it joins --

17 Q. Let me hand you -- you just mentioned
18 doing some work for the Bergmans in '04. Is that a
19 copy of a survey of yours from '04?

20 A. Yes, sir, it is.

21 Q. Okay. And that's the survey you were
22 referring to; is that correct?

23 A. That's correct.

24 MR. FINGER: If we could have this
25 marked, please, as the next Defendant's exhibit.

1 MR. MURPHY: No objection.

2 JUDGE DUKES: All right. Defendant's
3 10.

4 (MARKED PLAINTIFF'S EXHIBIT NO. 10.)

5 BY MR. FINGER:

6 Q. Looking at Exhibit 10 you had mentioned
7 that you had -- tell me what the significance of
8 some of things that you found. You found some
9 concrete markers, et cetera. Tell the Court what
10 the significance of that is, if you would, please?

11 A. Concrete markers, excuse me, and iron
12 pipes we found coincide with the Wilson plat for
13 Lots 1 and 2 from his plat, Plat Book 15 at 31. I
14 feel those were the original monuments. And
15 original monuments have no error. If they don't
16 agree with his plat -- his plat's only an attempt to
17 explain what he did in the field. If it varies from
18 that, the monuments on the ground in the field rule.
19 That's an established many, many times over,
20 surveying.

21 Q. Okay. I would draw your attention, if I
22 could, for a minute -- let me get oriented
23 correctly. Along Bostick Road on the boundary with
24 Lot 1 there is an iron pipe that you found --

25 A. Correct.

1 Q. -- correct? And there's a concrete
2 monument that you found --

3 A. Yes, sir.

4 Q. -- correct?

5 A. Correct.

6 Q. And those directly correlate with the
7 Wilson plat from 1965; is that correct?

8 A. That's correct, yes, sir.

9 Q. And it's your professional opinion that he
10 set those two markers?

11 A. Yes, sir.

12 Q. Okay. All right. So the next -- after
13 this 2004 plat, when was the next time that you
14 worked a little bit on it?

15 A. It was in 2014 when I surveyed the
16 property for Mr. Summerall.

17 Q. And is this a copy of that plat?

18 A. Yes, sir, it is.

19 Q. Okay. And this plat was dated February
20 4th, 2014?

21 A. Correct.

22 Q. Recorded in Book 138 at 61?

23 A. Yes, sir.

24 Q. Okay. Could I have that marked as the
25 next Exhibit 11, please.

1 JUDGE DUKES: Mr. Murphy?

2 MR. MURPHY: Oh, no objection. This
3 is already in evidence, I believe.

4 MR. FINGER: Oh, okay. Well, now
5 it's on both sides then.

6 (MARKED DEFENDANT'S EXHIBIT NO. 11.)

7 BY MR. FINGER:

8 Q. All right. Defendant's Exhibit 11.
9 Again, there on the Bostick Road line, you find the
10 same -- you find an iron pipe found and the CMF,
11 concrete monument found.

12 A. Correct.

13 Q. But you have added 10 feet; is that
14 correct?

15 A. That's correct.

16 Q. Tell me what this plat is supposed to
17 represent.

18 A. This represents the 10 foot additional
19 property acquired by Mr. --

20 Q. By Williams?

21 A. -- Summerall. Yeah, Williams. His
22 predecessor in title from the County. The County
23 was deeded a 60 foot right-of-way on Bostick Road by
24 a plat that I, frankly, don't agree with. But for
25 the location, 60 feet is fine. Then they did a

1 quiet title to transfer 10 feet of the property to
2 the Williamses reducing the right-of-way to 50 feet
3 to try to clarify some area of confusion on a Gasque
4 plat.

5 Q. Now, you said a quiet title. You meant a
6 quit claim?

7 A. Quit claim. Excuse me.

8 Q. Okay.

9 A. Yes, sir.

10 Q. And in this Exhibit 11, you refer again
11 back to the Wilson plat at 15 -- recorded in 15 at
12 31; am I correct?

13 A. Yes, sir.

14 Q. Okay.

15 A. Right.

16 Q. All right. You have -- you have done
17 something similar to what Mr. Khalil did. Am I --
18 would that be a fair way of saying it?

19 A. Yes, sir.

20 Q. Tell me what -- tell me --

21 MR. FINGER: If we could have that
22 marked, please, as the next Defendant's exhibit,
23 please.

24 MR.. MURPHY: No objection.

25 JUDGE DUKES: Defendant's 12 without

1 objection. Thank you.

2 (MARKED DEFENDANT'S EXHIBIT NO. 12.)

3 BY MR. FINGER:

4 Q. And what does that represent, please, sir?

5 A. This is a sketch we did, excuse me,
6 showing the two -- the area of conflict between the
7 right-of-way of Bostick Road between Mr. Wilson's
8 subdivision plat and Hussey's subdivision plat of
9 Block C.

10 Q. Okay.

11 A. They don't fit together.

12 Q. And you have referred to five different
13 plats there; am I correct?

14 A. Yes, sir, that's correct.

15 Q. Okay. And what you're trying to do is
16 relate on your plat here, this Exhibit 12, where
17 those various lines are; am I correct?

18 A. That's correct, yes, sir.

19 Q. Okay. And do you have a professional
20 opinion based upon all the review and all the work
21 you've done as to where the proper Summerall
22 boundary line is along Bostick Road?

23 A. It's on the blue light. This line right
24 here.

25 Q. And your opinion is based upon your review

1 of the primary and dominant subdivision plat from
2 1965?

3 A. Yes, sir.

4 Q. And the 10 foot quit claim where the
5 County added -- reduced from 60 to 50 feet?

6 A. Yes, sir.

7 Q. Okay. And the orange lines, what do those
8 represent?

9 A. That's the Hussey plat of Block C in Salem
10 Plantation where they came down. There's a lot of
11 confusion over the placement of Lot 15 C, but it
12 goes beyond the 60 foot right-of-way as established
13 prior by the Wilson plat.

14 Q. Okay. In your list of plats over in the
15 -- that you refer to, do you refer to the Niels
16 Christensen plat relative to Lot 50?

17 A. Yes, sir.

18 Q. Okay. And what was your understanding --

19 MR. FINGER: And that plat is already
20 in evidence, Your Honor.

21 BY MR. FINGER:

22 Q. What is your understanding of what
23 Mr. Niels Christensen had done when he did that
24 plat? And that plat is recorded at what?

25 A. Seventeen -- Book 17, Page 32.

1 Q. Okay. Okay.

2 A. And I'm sorry.

3 Q. And what is your understanding of what
4 Christensen did when he did that plat?

5 A. Could I see that plat? Has that been
6 entered?

7 Q. Yes, it's been entered. There it is right
8 there.

9 A. Yeah. Right. This is a revision of this
10 Lot 15, Block C in Salem Plantation. He realized
11 that on the original plat it was 144.7 feet,
12 thereabouts. And that that came about 30 feet into
13 the right-of-way and that couldn't be because this
14 plat -- this subdivision plat had already been
15 established with a 60 foot right-of-way which only
16 left 114 feet for Lot 15. And that's what he did.
17 He did a corrected deed or revision of Lot 15.

18 Q. And we established a moment ago with the
19 title searcher that the original deed out on Lot 15
20 referred to Mr. Christensen's plat and not the wrong
21 plat of Mr. Hussey; is that correct?

22 A. Yes, sir, that's correct.

23 Q. Okay. And so your orange lines are simply
24 to say that if Hussey was correct, and you don't
25 believe he was, that's where the Hussey lines would

1 have been --

2 A. Yes, sir.

3 Q. -- is that correct?

4 A. That's correct.

5 Q. Okay. Is there anything else that in your
6 review of all of this you feel would help Judge
7 Dukes in making an ultimate decision about where the
8 lines are?

9 A. Just reiterate that senior rights are
10 conferred on the first subdivision plat out of the
11 whole total property in this area anyway. There
12 never was any contention between the Bostick and the
13 Trask property line. That was never any contention.

14 Some of the monuments have been destroyed
15 over the years. There's a huge drainage ditch that
16 runs through here. With maintaining that, widening
17 it, cleaning it out, several of the monuments have
18 been -- have been knocked out..

19 So relying on 110 foot dimension from
20 something to alter this property line and this 60
21 foot right-of-way is -- I don't -- I don't buy that
22 at all.

23 Q. Okay. As part of the fieldwork that your
24 office did for all this survey work both for
25 Bergmans and for Summerall, your file has in -- your

1 files have it that document; am I correct?

2 A. Yes, sir.

3 Q. Okay. Will you let Mr. Murphy take a look
4 at that?

5 MR. FINGER: I'm not sure we sent
6 that to you, Chris. It was in -- it was in the
7 documentation that was -- that I believe I sent to
8 you, but I -- it's been so scattered.

9 MR. MURPHY: Oh, yeah. This is his
10 notes?

11 MR. FINGER: That -- those are --
12 those are --

13 THE WITNESS: Yes, sir, field
14 notes --

15 MR. FINGER: -- field notes.

16 THE WITNESS: -- from the survey
17 crew.

18 MR. FINGER: The next Defendant's
19 exhibit, please, Your Honor.

20 JUDGE DUKES: All right. That will
21 be Defendant's --

22 COURT REPORTER: Thirteen.

23 JUDGE DUKES: -- 13. Without
24 objection, I understand?

25 MR. MURPHY: No objection.

(MARKED DEFENDANT'S EXHIBIT NO. 13.)

BY MR. FINGER:

Q. And I direct your attention to Defendant's 13. Those are field notes that your office has assembled in doing this work on Lot 1; am I correct?

A. That's correct. Yes, sir.

Q. And I would direct your attention to this concrete marker that appears to be in the middle of Bostick Drive. What is your -- what do your notes say about this marker?

A. The crew chief said, looks suspicious.

Q. Does that appear that it was -- when something's suspicious -- I mean, when original monuments are set back when Wilson set them in '65, how are they typically set?

A. Almost flush with the ground --

Q. Okay.

A. -- and tight compaction.

Q. Okay.

A. This one was sticking up as best I remember about a foot and it was loose in the ground. Not typically set by a surveyor.

Q. As if someone, in fact, moved it?

A. Possibly, yes, sir.

UNKNOWN SPEAKER: Maybe just mention

1 in the Trogdon plat from 1988 that I think David was
2 involved in.

3 MR. FINGER: What do you want me to
4 do?

5 UNKNOWN SPEAKER: Well, just --

6 MR. FINGER: You can talk about that.

7 UNKNOWN SPEAKER: -- in doing this
8 adjoining parcel, they found all these concrete
9 markers and the facts showed that two of them had
10 been moved.

11 BY MR. FINGER:

12 Q. I hand you, please, a plat from
13 Mr. Trogdon, 35 at 215. You've reviewed that plat;
14 am I correct? Do you remember?

15 A. No, I don't remember.

16 Q. Okay.

17 A. I've seen it before certainly.

18 Q. But you don't remember whether you
19 reviewed it or not?

20 A. No, sir. I don't remember.

21 MR. FINGER: I don't have any other
22 questions. Please answer any questions that
23 Mr. Murphy has.

24 CROSS EXAMINATION

25 BY MR. MURPHY:

1 Q. Sir, if I understand your testimony there
2 should have been zero confusion from when the plat
3 was -- this was first platted in 1965. Is that what
4 you're saying?

5 A. At that time there wasn't any confusion,
6 no, sir. These lots were platted and this 60 foot
7 right-of-way shown on that original plat.

8 Q. And did you look at any of the corrected
9 deeds that were done with regard to Lot 15?

10 A. I did.

11 Q. And are those depicted -- those lines
12 depicted on this exhibit at all?

13 A. They are.

14 Q. Where are they?

15 A. Those are the orange lines.

16 Mr. Christensen came and redid a plat, showed this
17 as 144 feet claiming that it was a scrivener's
18 error.

19 Q. All right. So there was a scrivener's
20 error. And then in terms of if -- this orange line
21 from point to point, what is that? Is that a 50
22 foot right-of-way or a 60 foot?

23 A. That's 60 feet.

24 Q. All right. And did you -- you hadn't had
25 any -- you weren't a party or you weren't involved

1 in the 2011 quit claim deeds between the County and
2 Melanie Williams, were you all?

3 A. No, sir. No, sir.

4 Q. And you had no conversations with Josh
5 Gruber about the intent of those deeds, did you?

6 A. No, sir.

7 Q. And you didn't talk to Melanie or Leonard
8 Williams about the intent of those deeds, did you?

9 A. No, sir.

10 Q. All right. And those deeds that are in
11 the chain of title, are those lines depicted on this
12 exhibit of yours?

13 A. Yes, sir. The 10 foot line is depicted by
14 this blue line right here.

15 Q. Okay. So what you're saying is that there
16 was an additional 10 feet that was depicted in one
17 of the quit claim deeds?

18 A. Correct.

19 Q. Okay. What about the three feet that was
20 given to the County? Where is that depicted?

21 A. That was -- there was an area of confusion
22 right in here --

23 Q. Right.

24 A. -- off of a Gasque plat. That three feet
25 came to a point that would, excuse me, leave a 10

1 foot strip here that was conveyed to the Williamses.

2 Q. Okay. And in those deeds there was
3 clearly establishing a 50 foot right-of-way -- an
4 intent for a 50 foot right-of-way?

5 A. That's correct.

6 Q. And where is that 50 foot right-of-way?

7 A. That's between the two blue lines right
8 here --

9 Q. So it's your --

10 A. -- 50.

11 Q. It's your testimony that the County
12 intended to run the right-of-way lines through these
13 buildings? Is that what your testimony is?

14 A. That I don't know. I know --

15 Q. Just use common sense. Do you think
16 that's what the County intended to do?

17 A. Well, common sense doesn't have anything
18 to do with property ownership a lot of times.

19 Q. All right.

20 A. Property owners --

21 MR. MURPHY: No further questions.

22 THE WITNESS: Thank you.

23 MR. FINGER: You can explain your
24 answer.

25 JUDGE DUKES: Yeah, he can answer.

1 THE WITNESS: Okay. Property
2 ownership comes to this blue line. That was
3 established in '65 with the H.F. Wilson plat,
4 establishes that line and establishes the 60 foot
5 right-of-way for Bostick Road.

6 When this plat was done I don't know why
7 it wasn't part of it. I don't know all the
8 workings, but somehow it got extended over
9 approximately 30 feet and it shouldn't have. It
10 should have been cut off like the first Christensen
11 plat where it cut it down to 114 feet to make it
12 match the 60 foot platted right-of-way on file.

13 BY MR. MURPHY:

14 Q. Did you have any discussions with David
15 Gasque about the difference in opinions of the
16 plats?

17 A. No, sir.

18 Q. Did you have any discussions with Sam
19 Khalil about the difference in the findings of the
20 plats?

21 A. No, sir.

22 Q. And this plat that you prepared was
23 done -- well, the 2014 --

24 A. Correct.

25 Q. That was filed with the deed -- with

1 Frampton Harper that did the closing; is that
2 correct?

3 A. I couldn't tell you whether he recorded
4 that or not.

5 Q. Are you familiar with the way that the
6 distances for Lot 1 or the size of Lot 1 has changed
7 over the years according to the deeds?

8 A. I don't think they've changed. Excuse me.
9 There's been some monumentation that's been moved
10 here and there on some of the sidelines, but on the
11 northern line -- but the line itself has not
12 changed.

13 Q. And the distances that Mr. Khalil
14 referenced, do you have any knowledge about those
15 changes in distances along that line?

16 A. No, sir, I don't.

17 Q. And what about the distances that David
18 Gasque referenced with regard to the changes along
19 that line?

20 A. I couldn't -- I wasn't part of that
21 either.

22 MR. MURPHY: Nothing further.

23 JUDGE DUKES: Anything else?

24 MR. FINGER: No. No redirect. Any
25 questions from the Judge?

1 JUDGE DUKES: I don't think I have
2 any questions of this witness from the Judge. Thank
3 you so much.

4 THE WITNESS: You're welcome.

5 JUDGE DUKES: Any objection to him
6 leaving?

7 MR. MURPHY: Nothing.

8 JUDGE DUKES: All right. Thank you
9 so much. Let's -- want to take a five minute break?

10 (BREAK TAKEN)

11 JUDGE DUKES: Back on the record.

12 Call your next witness, please.

13 MR. FINGER: We'll call Tim
14 Summerall.

15 JUDGE DUKES: Good afternoon -- good
16 morning, sir. It's still morning. Do you swear or
17 affirm to tell the truth, the whole truth, and
18 nothing but the truth so help you God?

19 THE WITNESS: I do.

20 JUDGE DUKES: Could you state your
21 full name for the record, please.

22 THE WITNESS: Timothy Allen
23 Summerall.

24 JUDGE DUKES: Thank you so much. Go
25 ahead, please, Mr. Finger.

1 BY MR. FINGER:

2 Q. All right. Tim, you are a licensed
3 surveyor in South Carolina since 1985; am I correct?

4 A. Yes, sir.

5 Q. And that is your chosen profession? You
6 practice that now; is that correct?

7 A. Yes, it is.

8 Q. We would offer him as an expert in
9 surveying.

10 MR. MURPHY: No objection.

11 BY MR. FINGER:

12 Q. Okay. And you own lot 15; am I correct?

13 A. Lot 1.

14 Q. I'm sorry. Lot 1. Fifteen is across the
15 street. And tell the Court, if you would, on this
16 survey boundary issue, what work have you done?
17 What have you studied? What have you looked at?
18 Just kind of across the board, please. Not every
19 piece of paper, but tell the Court what you've done,
20 if you would, please.

21 A. Right. When I first started looking at
22 the property in 2014, as a surveyor, I wanted to
23 know where the boundaries were. I was given a piece
24 of paper by a Realtor who was representing the
25 owner.

1 And I recognized that piece of paper as
2 coming -- probably coming from Mr. Gasque. So I
3 went to Mr. Gasque's office, reviewed his files.
4 Was able to copy a number of documents from his
5 file. I then spoke to Mr. Youmans. Mr. Youmans
6 made his files available to me which included his
7 own files, those of Doug Trogon, Junior, those of
8 H.F. Wilson.

9 And I made copies of a number of
10 documents. And then over the next few weeks I did a
11 lot of research -- courthouse research both online
12 and at the courthouse. I made copies of many, many
13 plats and deeds and so forth. And it quickly became
14 apparent to me that the work Mr. Youmans had done,
15 particularly the 2004 survey he did for the
16 Bergmans, was correct. And that most of the rest of
17 the survey work that had been done was incorrect.

18 Q. Did you review the original Wilson plat?

19 A. Yes, I did.

20 Q. And what's the significance of the
21 original Wilson plat relative to where the boundary
22 is on your lot?

23 A. It was recorded in 1965. It was the first
24 of the two plats to be recorded. It created Lot 1
25 through 15 along with the right-of-way for

1 Plantation Drive and the right-of-way for Bostick
2 Road which gave it senior of rights over anything
3 else that came after. Including the Hussey and Gay
4 plat that was reported the year later and which
5 created this apparent overlap between the two plats.

6 Q. Okay. And on the original Wilson plat in
7 1965 there is reference to concrete markers being
8 set; is that correct?

9 A. Concrete markers and iron --

10 Q. And iron sets.

11 A. -- markers.

12 Q: And you heard a prior witness, just one
13 prior witness, indicate the significance of concrete
14 and iron pins being set, originally. Do you agree
15 with his analysis on that?

16 A. Absolutely. It's a very well-established
17 principle of boundary re-tracement that monuments --
18 manmade monuments, natural monuments, there's
19 manmade monuments and distance and direction and
20 area and so forth. So it absolutely -- these
21 original markers rule over distance, direction,
22 area, and so forth.

23 Q. Okay. Is it -- what is your opinion as to
24 whether the Hussey plat was correct or not?

25 A. I believe it was incorrect --

1 Q. Okay. In --

2 A. -- with respect to Lot 15 --

3 Q. Okay.

4 A. -- And the right-of-way from Bostick Road.

5 Q. Okay. Now, you've had an opportunity to
6 review the quit claim deeds between Williams and the
7 County --

8 A. I have.

9 Q. -- and the Gasque plat that is attached to
10 those; is that correct?

11 A. I have.

12 Q. What issues or problems do you have with
13 the Gasque plat that's attached to those quit claim
14 deeds? Do you need to see it?

15 A. No, I don't need to see it.

16 Q. Okay. Go ahead.

17 A. Well, you know, when you just start with
18 the fact that there's about eight versions of it all
19 those -- the one in question is recorded. I have
20 seen eight or more versions of that plat, and I
21 believe them all to be incorrect.

22 Q. Okay. And you did note, did you not, that
23 it says it doesn't match the original subdivision?

24 A. Yes.

25 Q. And then he has two areas of confusion; is

1 that correct?

2 A. Yes.

3 Q. What possible of area of confusion could
4 there be in the northern boundary of your lot where
5 he showed the lot going off in a direction as my pen
6 is shown now?

7 A. There was no confusion there. That line
8 that goes from Salem Road all the way back to the
9 water has been established and reestablished
10 multiple times over the last 60 or 70 years.

11 Q. Okay. As a surveyor, were you able to
12 determine the quit claim deed from the Williams to
13 the County for up to 3.38 acres? Were you able to
14 determine what property, if any, was conveyed by
15 that?

16 A. No, sir.

17 Q. Okay. And conversely, the quit claim deed
18 from the County to the Williams that gave up 10 feet
19 on the right-of-way, are you able to determine what
20 property was conveyed there?

21 A. No.

22 Q. Okay. You have been sued because they
23 claim your fence is on their property. Is your
24 fence on the County property?

25 A. No.

1 Q. Okay. And on what do you -- and that is
2 your professional opinion and personal opinion; am I
3 correct?

4 A. Yes, sir.

5 Q. Okay. The professional side of that
6 opinion, what facts do you rely upon to make that
7 opinion?

8 A. The finding of original concrete markers
9 and iron markers that were placed by the original
10 surveyor H.F. Wilson in 1965 and which are -- some
11 of which are still there today. And none of which
12 were found by either Mr. Gasque or Mr. Khalil.

13 Q. I'm going to hand you a plat from
14 Mr. Trogdon which is from 1988 recorded at Plat Book
15 35 at 215. That's a plat that you have reviewed; am
16 I correct?

17 A. Yes, sir.

18 MR. FINGER: Bear with me a second.
19 I'll get a copy for you. We would offer this as the
20 next Defendant's exhibit, please, Your Honor.

21 MR. MURPHY: No objection.

22 JUDGE DUKES: All right. Exhibit 14. A

23 COURT REPORTER: I have to write
24 first because you take that and then you start
25 talking and I don't have time to write it down.

1 MR. FINGER: Sorry.

2 COURT REPORTER: Thank you.

3 (MARKED DEFENDANT'S EXHIBIT NO. 14.)

4 MR. FINGER: Okay. This exhibit,
5 Defendant's Exhibit 14, what is the significance of
6 that plat on the overall issue of where your lot
7 line is?

8 A. Well, it shows --

9 Q. Let the Judge come look because I didn't
10 -- unfortunately, I didn't bring a copy for the
11 Judge. Go ahead.

12 A. It's a survey of the adjoining Bostick
13 property from, I believe, 1988. And it shows the
14 adjoining property and then it shows where the
15 Bostick Road right-of-way intersects that property
16 line. This is the line I mentioned has been
17 established many times over the years and to which
18 there is no confusion.

19 And it shows the markers -- iron markers
20 and concrete markers found. And it shows several of
21 them out in the right-of-way of Bostick Road
22 indicating that those monuments had been moved by
23 someone.

24 Q. Okay. And in this there's a bunch of
25 calculations on here. Are those yours?

1 A. Yes, sir.

2 Q. And what were those designed to do?

3 A. It's been awhile since I did that, but I
4 believe that I was comparing the distances shown on
5 this plat from Salem Road back to Bostick Road and
6 just simply adding them up to see if they came up
7 with -- to see if they agreed and they did.

8 Q. They agreed with the Christensen revision
9 on Lot 115 for 114.7 feet?

10 A. Yes, they did.

11 Q. Not the 144 that Mr. Hussey had?

12 A. That's correct.

13 Q. And at the time that you bought the
14 property, in the title work that has been provided
15 -- I'm not sure it was an exhibit, but I'm not sure
16 we need it. You got a deed from the Williamses to
17 the .07 -- or the .07 and .02 areas of confusions on
18 that Youmans plat; is that correct?

19 A. Yes, sir.

20 Q. They deeded -- they did separate deeds to
21 you for that just in case there was any question; am
22 I correct?

23 A. Yes.

24 Q. Okay. And that was something that you and
25 your attorney talked about getting done and it

1 actually happened; am I right?

2 A. Yes.

3 MR. FINGER: Okay. Your Honor, just
4 one point. In our counterclaim we -- our
5 counterclaim was to confirm the line as my client
6 believes it is. But I would also asked for
7 attorneys fees. I'd ask that that simply be
8 bifurcated based upon what you ultimately decide so
9 I don't have to go into any of that.

10 JUDGE DUKES: Any objection?

11 MR. MURPHY: No, but, I mean, there's
12 no statutory scheme to get attorneys fees that I'm
13 aware of. So I don't think it's a proper -- I don't
14 think it's proper, but I don't mind --

15 JUDGE DUKES: I understand.

16 MR. MURPHY: -- crossing that bridge
17 when we get there.

18 MR. FINGER: Thank you.

19 JUDGE DUKES: Yeah. We'll do that.

20 MR. FINGER: I was just trying to
21 save a little time this morning if we could.

22 JUDGE DUKES: Okay.

23 MR. FINGER: Bear with me one second,
24 Your Honor.

25 BY MR. FINGER:

1 Q. Any of the -- were there any plats today
2 that were discussed that you haven't thoroughly
3 reviewed yourself.

4 A. I don't think so.

5 Q. Okay. And the last plat that was
6 Plaintiff's -- Defendant's Exhibit 12, is it your
7 professional opinion that the blue lines represent
8 your lot line and the lot line of 15?

9 A. Yes, it is.

10 MR. FINGER: Okay. Thank you.
11 Please answer any questions Mr. Murphy might have.
12 Thank you, sir.

13 CROSS EXAMINATION.

14 MR. MURPHY: Thank you. May it
15 please the Court.

16 BY MR. MURPHY:

17 Q. Mr. Summerall, you're familiar with the
18 term for corrected deeds; aren't you?

19 A. Yes, I am.

20 Q. All right. And when you're doing a
21 corrected deed, you would agree that the number one
22 or the most controlling issue is the intent of the
23 parties. Would you agree with that?

24 A. Yes.

25 Q. Okay. And you would also concede that

1 regardless of surveys, landowners can change
2 property lines by agreement, can't they?

3 A. Yes.

4 Q. And if the property lines are changed by
5 agreement, all the prior surveys indicating anything
6 differently would be irrelevant; wouldn't that be
7 the case?

8 A. No, I don't think so.

9 Q. So tell me if -- how that would be if
10 parties A and B agreed to change the survey -- the
11 property lines of their property, how would prior
12 surveys impact that agreement?

13 A. Well, in order to have a property line
14 agreement, there has to be an ambiguity as to where
15 the lines actually are.

16 Q. Okay.

17 A. And there was no -- there was no
18 uncertainty, no confusion, no ambiguity in where
19 these property lines were on the ground.

20 Q. All right. You were not involved,
21 obviously, in 2011 when the -- those quit claim
22 deeds were prepared by -- between the County and the
23 Williamses, correct?

24 A. I was not a party to that, but I have
25 spoken to Mrs. Williams about it.

1 Q. Well, that's hearsay. We're not going to
2 get into that. But you obviously weren't a party to
3 that transaction, correct?

4 A. Correct.

5 Q. All right. Now, you also -- let me ask
6 you this. In these lines, did you -- well, you
7 would concede that those 2011 quit claim deeds fall
8 within the chain of title as to this property?

9 A. Yes.

10 Q. All right. And you haven't done any
11 action to set aside those quit claim deeds, have
12 you?

13 A. I have not.

14 Q. And your testimony was that you did not
15 understand the quit claim deeds, I believe; is that
16 correct?

17 A. I understand the intent of them, but the
18 actual --

19 MR. MURPHY: Well, what was --

20 THE WITNESS: What they actually
21 conveyed is not at all clear.

22 Q. Well, tell me what was the intent of them.
23 What do you think the intent was?

24 A. The intent was to put the uncertainties
25 that Mr. Gasque had pointed out to rest.

1 Q. And that would be as to the yellow lines
2 to establish the right-of-way as to Exhibit P.1-M,
3 correct?

4 A. Apparently, yes.

5 Q. Okay.

6 A. But I disagree that there was any
7 uncertainty.

8 Q. Now, when you bought the property, I
9 believe -- was it Frampton Harper that did the
10 closing?

11 A. No.

12 Q. Was it Ray Williams?

13 A. It was Ray Williams.

14 Q. Okay. And was there -- Frampton Harper
15 represented the Williamses; is that correct, Leonard
16 and Melanie Williams?

17 A. I don't -- I don't think I know the answer
18 to that.

19 Q. All right. And in the title policy,
20 obviously, you were aware of the 2011 quit claim
21 deeds when you purchased the property, correct?

22 A. Yes.

23 Q. And did you get a legal opinion as to what
24 was conveyed pursuant to those 2011 deeds?

25 A. I spoke to Ray Williams about it. He

1 agreed with me that my property lines were as
2 they're shown in the orange on this plat. And he
3 agreed that the quit claim deeds were quite
4 confusing which is why he ultimately conveyed it to
5 me by way of David Youmans' service.

6 Q. Now, there was a -- you had Ray Williams
7 -- after you bought this property, you transferred
8 it to Ray Williams, your attorney, who then
9 transferred it back to you; is that correct?

10 A. Yes.

11 Q. And what was the purpose of transferring
12 it to Ray Williams?

13 A. To get the David Youmans survey into the
14 chain of title.

15 Q. And other than just getting that Youmans
16 survey into the chain, there wasn't any other
17 purpose of transferring the property to Ray
18 Williams?

19 A. Well, to reiterate where the true property
20 lines were.

21 Q. And then he transferred the property back
22 to you?

23 A. Yes, he did.

24 Q. And that was an attempt to try to change
25 these title lines or the lines on the property on

1 Bostick Road?

2 A. My understanding it was an attempt to
3 depict the correct property lines.

4 MR. MURPHY: Nothing further. Thank
5 you.

6 FURTHER DIRECT EXAMINATION

7 BY MR. FINGER:

8 Q. In Exhibit P.1-M which was the one that
9 Mr. Gasque testified to, these two orange lines are,
10 in your opinion, the proper boundaries; am I
11 correct?

12 A. On this --

13 Q. And that's -- and that is the same as --
14 essentially, the same as what we have --

15 A. I believe it is essentially the same, yes.

16 Q. And it is clear that on this Plaintiff's
17 1-M that perhaps this whole matter is due to the
18 fact that there were some suspicious monuments that
19 were there -- there out there. And in order to have
20 this orange line be the proper boundary now, we got
21 a problem on Lot 15 because he's built over his
22 line. Isn't that what this is all about?

23 MR. MURPHY: Objection. Speculative.

24 MR. FINGER: I'll withdraw. No
25 further questions, Your Honor.

1 JUDGE DUKES: Any other questions of
2 this witness based on that?

3 MR. MURPHY: Nothing, Your Honor.

4 MR. FINGER: That's the case for the
5 Defendant, Your Honor.

6 JUDGE DUKES: Let me ask just a quick
7 question here. What use is made by anyone of
8 Bostick Road now? I mean, it appears to be the
9 access to your property and maybe other properties.
10 But what other uses is made of it?

11 MR. MURPHY: Nothing at the point
12 right now.

13 MR. FINGER: There's nothing back
14 there. And, Your Honor, just to follow up on that
15 there is certainly access back to this entire
16 Bostick track through Salem Road here. So if the
17 question ultimately is access, they have access
18 here. Certainly have access here, too. But they
19 have access from Salem Road back here for any future
20 development.

21 JUDGE DUKES: Well, and they weren't
22 under common ownership. One was Trask. One was and
23 still is Bostick, right?

24 MR. FINGER: Correct. That's
25 correct.

1 JUDGE DUKES: Okay. And -- but it's
2 a County -- so it's essentially a -- whatever it is
3 a County owned and maintained spur of Plantation
4 Drive?

5 MR. MURPHY: Yes.

6 JUDGE DUKES: So all of the entirety
7 of Bostick Road is, what, a couple hundred feet long
8 there?

9 MR. MURPHY: It's at most, yes.

10 MR. FINGER: At most.

11 JUDGE DUKES: And it's a paved road
12 that simply ends at a ditch?

13 THE WITNESS: No, sir. It's not --

14 MR. MURPHY: It's not paved. It's
15 dirt.

16 THE WITNESS: -- paved or maintained.

17 JUDGE DUKES: Oh, it's just --

18 THE WITNESS: It's just a paper
19 street. It's basically grass and dirt. And there's
20 no paving of any kind except right in the entryway
21 off of Plantation.

22 JUDGE DUKES: I guess I should have
23 asked Josh this then. What -- well, maybe I can
24 talk to counsel about it, but -- all right. I don't
25 have any further questions. It's grass or dirt, but

1 how do you access your property from the -- from
2 Plantation?

3 THE WITNESS: There's a, you know --

4 JUDGE DUKES: Oh, you just drive on
5 it?

6 THE WITNESS: -- sort of a dirt
7 road --

8 JUDGE DUKES: Oh, I got you.

9 THE WITNESS: -- part of which is
10 grass.

11 JUDGE DUKES: I see. I understand.
12 Okay. All right.

13 MR. MURPHY: I mean, it's not a lush
14 grass field like you would -- it's a dirt road. I
15 mean --

16 JUDGE DUKES: Like a -- okay. I get
17 it. All right. But it ends at essentially a
18 drainage ditch?

19 MR. MURPHY: A drainage ditch, yes.

20 THE WITNESS: Well, the drainage
21 ditch is gone now. The County got easements from
22 the -- from me and all these other property owners.
23 And they installed a pipe and the ditch has been
24 filled in. And so there are inlets, but --

25 JUDGE DUKES: Okay. So there's a

1 drainage easement then under which is a pipe?

2 Probably a pretty big one, I bet.

3 MR. MURPHY: Yes.

4 JUDGE DUKES: Okay. I don't have any
5 further questions. Any other questions responsive
6 to my questions?

7 MR. MURPHY: None, Your Honor.

8 MR. FINGER: None, Your Honor.

9 JUDGE DUKES: Okay. Thank you so
10 much, sir. You can go back to your chair. Did you
11 say that was Defendant's case?

12 MR. FINGER: That's it for the
13 Defendant's case, Your Honor.

14 JUDGE DUKES: All right.

15 MR. FINGER: Your Honor, at this
16 point I would just respectfully move for -- to renew
17 my directed verdict motion at this time in the -- I
18 guess it's a -- no. Well, first it was a nonsuit
19 instead of a directed verdict. Now, it's a directed
20 verdict. So I apologize for the wrong motion.

21 MR. MURPHY: And just so -- Judge,
22 you're looking at the pleadings. Mr. Finger did a
23 counterclaim for a quiet title action. So whether
24 you pause -- couch this as a trespass versus a quiet
25 title, we're trying to accomplish the exact same

1 thing.

2 JUDGE DUKES: Yeah. I agree with
3 your assessment.

4 MR. MURPHY: And I would renew my
5 motions for a directed verdict as well.

6 MR. FINGER: And, Your Honor, just
7 to -- just to elaborate a little bit on my motion.
8 There have been four expert surveyors testifying
9 today. Mr. Gasque, Mr. Khalil, Mr. Youmans and my
10 client Mr. Summerall. Two of them in the
11 Defendant's case have actually given you an opinion
12 as to where the boundaries are based upon their
13 profession, their expertise, their review of all the
14 data and documentation.

15 The two experts that were introduced by
16 the Plaintiff, Mr. Khalil clearly says I have no
17 opinion. And Mr. Youmans, other than saying he was
18 confused and he didn't know what the ultimate was --
19 I'm sorry, Mr. Gasque.

20 So I think the only expert testimony you
21 have before you today is that the orange lines on M
22 and the blue lights on Defendant's 12 are the
23 controlling lines based upon the expert testimony
24 that's actually been given to you today. And I have
25 nothing further on my motion.

1 MR. MURPHY: And although I disagree,
2 I think, Gasque, Vicki Gault and Khalil all
3 testified about the chain of title and what the 2011
4 deeds established. And as you know, a jury charge
5 is you can believe all or none of the testimony of
6 any witness. And it's not a numbers game.
7 Therefore, I would object to that motion in terms of
8 just pure opinion as to an expert.

9 But none of them testified --
10 Mr. Summerall testified that the intent was as of
11 the yellow lines which is the overriding,
12 controlling factor in this case. And I think that
13 sums it up best that we should be entitled to a
14 directed verdict or at least judgment as to the
15 yellow lines in the Gasque exhibit.

16 JUDGE DUKES: All right. I'm going
17 to take all motions under advisement because you all
18 are much more familiar with all this than I am. I
19 will probably just end up ultimately ruling, but
20 I'll see.

21 Anything else for this record? I
22 understand by consent we have a bifurcation. I'm
23 not sure I don't agree with Mr. Murphy's assessment
24 of whether or not these are available here. But
25 we'll hold that pending -- I think we had all agreed

1 to bifurcate that issue.

2 MR. FINGER: Yes. I understand, Your
3 Honor.

4 JUDGE DUKES: So -- all right.
5 Anything else then for the record?

6 MR. MURPHY: Nothing, Your Honor.

7 JUDGE DUKES: All right. That will
8 conclude the record.

9 (Whereupon, the hearing was concluded
10 at 12:10 p.m.)
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1 Certificate of Reporter

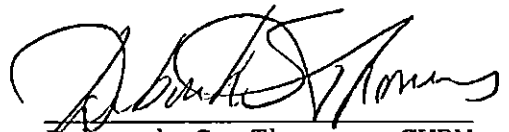
2
3 I, Deborah S. Thomas, Certified Verbatim
4 Reporter and Notary Public in and for the State of
5 South Carolina, do hereby certify that I reported
6 the hearing of 2017-CP-07-00327 Beaufort County v.
7 Timothy A. Summerall, et al, on the 26th day of
8 March, 2019: and that the foregoing pages constitute
9 a true and correct transcription of the said
10 hearing.

11 I further certify that I am neither
12 attorney nor counsel for, nor related to or employed
13 by, any of the parties connected with this action,
14 nor am I financially interested in said cause.

15 I further certify that the original of
16 said transcript shall be hereafter delivered to
17 Christopher L. Murphy, Esquire, Resnick & Louis, PC,
18 146 Fairchild Street, Suite 130, Charleston, South
19 Carolina 29492.

20 In witness whereof I set my hand and seal
21 this 2nd day of August, 2019.

22 My Commission
23 expires 2/7/28

24 
25 Deborah S. Thomas, CVRM
and Notary Public for the
State of South Carolina



1 State of South Carolina) Court of Common Pleas
2 County of Beaufort) 14th Judicial Circuit
3) No.: 2017-CP-07-00327

4 Beaufort County,)
5 Plaintiff,)
6 vs.)
7 Timothy A. Summerall,)
8 Defendant,)
9 _____)

HEARING

October 4th, 2019

10 Hearing reported by Deborah S. Thomas,
11 Certified Verbatim Reporter and Notary Public in and
12 for the State of South Carolina; said hearing held
13 before Honorable Marvin H. Dukes, III, Beaufort
14 County Master in Equity and Special Circuit Court
15 Judge in accordance with the South Carolina Rules of
16 Civil Procedure, at the Beaufort County Courthouse,
17 102 Ribaut Road, Room 212, Beaufort, South Carolina
18 on October 4th, 2019, at the hour of 1:52 p.m.

19 _____
20 DEBORAH S. THOMAS, CVRM
21 156 Argent Way
22 Bluffton, South Carolina 29909
23 (803) 206-7390
24
25

COPY

Appearances

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cmurphy@rlattorneys.com

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Finger Melnick & Brooks, P.A.
Post Office Box 24005
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tfinger@fingerlaw.com

1
2 CONTENTS3 Page
4 Exhibit Index 3
5 Certificate of Reporter 12
6 Word Index

7 * * * * *

8
9 EXHIBIT INDEX10
11 Exhibits: Marked at Page
12 (Exhibits retained by Clerk of Court.)

13 NONE PROFFERED

14
15 * * * * *

1 This hearing is conducted in
2 accordance with the South Carolina Rules of Civil
3 Procedure.

4 JUDGE DUKES: Good afternoon. We're
5 here in 2017-CP-07-00327. This is Beaufort County
6 versus Summerall. This is Beaufort County's motion
7 to reconsider. And I'm happy to hear from you, sir.

8 MR. MURPHY: Thank you, Your Honor,
9 may it please the court. This should be fresh in
10 your memory, the facts of this case. And -- or at
11 least the skeleton of the facts.

12 Basically, we were arguing over the line
13 on one side of the street of Bostic Court Road.
14 Where was that property line? And there was kind of
15 -- the testimony was that there was three possible
16 locations.

17 The first location is kind of where it was
18 at the beginning when the development was made back
19 in 1964-65. And I call that kind of the development
20 line. And nobody really knew where that was. It
21 was a mess before him. There's no question about
22 it.

23 Then in 2011, the parties who owned Lot 1
24 were Leonard and Melanie Williams. And the County,
25 on the other side, exchanged quitclaim deeds and

1 they established a line or least the testimony
2 established a line that -- at a certain portion.
3 And I call that the quitclaim line.

4 We then have David Youmans who was an
5 expert for the landowner, Mr. Summerall, who
6 established another line. And I call his line the
7 Youmans line. And this is just for ease of
8 reference.

9 But, we know, prior to 2011, the lots are
10 messed up. The plats were inconsistent. They
11 didn't match. There was no question about that.
12 But the testimony in the case that in 2011,
13 regardless of where the line was, on one side of the
14 line was Melanie and Leonard Williams. And on the
15 other side of the line was Beaufort County.

16 And we know that in 2011 the two parties
17 exchanged quitclaim deeds. They had a right to do
18 so. The quitclaim deeds fell within the chain of
19 title. They were valid. And they clearly intended
20 to move the line somewhere.

21 Now we know that they were ambiguous or
22 subject to some interpretation. And the law is --
23 talks about marker's and monuments and all that
24 stuff for surveying, but it falls back on the intent
25 of the parties. And by testimony, the intent of the

1 parties was to establish the quitclaim line as
2 testified by David Gasque.

3 And Josh Gruber testified to that intent.
4 David Gasque, who was involved with the whole thing,
5 testify to that intent. And Mr. Summerall testified
6 that that was the party's intent to establish that
7 line.

8 So when you look at all those things, you
9 -- we think that there's no choice but to put the
10 line as that quitclaim line established by the
11 quitclaim deeds of 2011.

12 Now, we also had Mr. Khalil who was a
13 surveyor. And Khalil testified to two things. He
14 said, look. If you ignore the 2011 quitclaim deed
15 lines, this line is going to be the Youmans line as
16 Mr. Summerall wanted. But if you follow the
17 quitclaim lines, it's going to be -- the quitclaim
18 deeds, it's going to be the quitclaim line which is
19 what the County wanted it to be.

20 And so we have there that these deeds fell
21 within the chain of title. The parties were -- had
22 the right to exchange and move that line anywhere
23 they wanted to. And it did happen. And you can't
24 go back. Anything that happened before 2011 is
25 really immaterial because the parties in 2011

1 changed that line. And then anything that happened
2 after 2011, the County wasn't a party to. So they
3 had no -- there was no right to change that line
4 from those 2011 quitclaim deeds.

5 And that's really the subject that -- the
6 whole issue in this case.

7 JUDGE DUKES: Thank you very much.

8 MR. MURPHY: And that's all I have.

9 JUDGE DUKES: Okay. Yes, sir.

10 MR. FINGER: Your Honor, may it
11 please the court. Terry Finger on behalf of Tim
12 Summerall, Defendant, who is seated to my left.

13 The court -- the order that you issued in
14 June of this year, if in fact the County's argument
15 is that you did not consider the intent of the
16 parties, I would draw the court's attention to
17 paragraph -- your finding of fact 16 which is on the
18 third page of your order.

19 In that paragraph 16, you specifically
20 address what Beaufort County may have intended to do
21 back then. And more importantly, if I could direct
22 your -- the court's attention to finding of fact 14
23 and finding of fact 15. And I don't know if you
24 have the order up, Judge.

25 JUDGE DUKES: I have it.

1 MR. FINGER: You have it?

2 JUDGE DUKES: Yeah, the 2005 Gasque
3 plat?

4 MR. FINGER: Correct. Both of those,
5 the Gasque plat which formed the basis for the
6 property description and the quitclaim deeds that
7 are at issue, you found, and appropriately so, based
8 upon the testimony and the exhibits, that there were
9 areas of confusion in these quitclaims and that the
10 survey does not match the subdivision plats.

11 And more importantly, your finding of fact
12 15 says that those quitclaim deeds did nothing more
13 than increase the confusion around the Hussey plat.

14 You will recall Judge that there was an
15 original subdivision plat that set the boundary for
16 Lot 1. Thereafter, when the -- when the next phase
17 of this development came in, a different surveyor
18 misaligned the boundary on Lot 1. It was corrected.
19 All the Lot 1 deeds always reference the correct
20 boundaries.

21 I think that your order specifically deals
22 with the issues that were raised. I think it
23 specifically deals with the items that are raised in
24 the motion to reconsider, specifically the intent
25 which is the main argument that is made in there.

1 Paragraph 7 of the motion says that you
2 did not address the parties intent. I believe you
3 specifically did with the quitclaim deed. You just
4 said that it causes more confusion than what was
5 going to go on. You dealt with intent in one of
6 your specific findings.

7 It says you did not identify what property
8 was exchanged at the quitclaim deeds. You in fact
9 said all it did is increase the confusion. If in
10 fact you take at face value the three different
11 options that Mr. Murphy set out, the development
12 line, the quitclaim line and the Youmans' line, it
13 was your factual finding as to which one you
14 thought, based upon all the evidence supplied, and
15 we believe that your order was well-reasoned.

16 I don't think anything that the County has
17 raised under Rule 50(e) would warrant any type of
18 amendment to your order as written.

19 And be happy to answer any questions or to
20 the extent the Court needs any of the plats between
21 opposing counsel and I, we have all them. All the
22 plats that are referenced in your order were
23 attached to the final order.

24 JUDGE DUKES: I've got them.

25 MR. FINGER: So you've got all those.

1 and they're all labeled down at the bottom.

2 JUDGE DUKES: I've got them all. And
3 I don't even need my magnifying glass. I can blow
4 them up with the computer.

5 MR. FINGER: Okay.

6 JUDGE DUKES: All right. Thank you.
7 Thank you so much. Anything else, Mr. Figure? Was
8 that --

9 MR. FINGER: No. But you
10 specifically found in your finding of fact 8 that
11 the Hussey plat which created all this confusion
12 was, in fact, wrong, that Surveyor Hussey did not
13 have the boundaries appropriately marked. There was
14 a plat thereafter as your findings of fact make
15 reference to that came back and fixed Hussey's wrong
16 plat. And then the parties went on from there.

17 The -- I just received the memorandum
18 yesterday afternoon from the County. We did not
19 order a copy of the transcript. I don't think
20 there's anything that's cited in the memorandum
21 which would give you any reason or cause to modify
22 or alter anything in your final order.

23 Thank you, Judge.

24 JUDGE DUKES: Thank you so much.
25 Anything else?

1 MR. MURPHY: Nothing, Your Honor.

2 That's it.

3 JUDGE DUKES: All right. Thank you
4 all so much. What I'll do is try to dig through it
5 and let you know something as soon as possible. If
6 you haven't heard from me in about ten days to two
7 weeks, if you wouldn't mind a gentle reminder by
8 e-mail --

9 MR. MURPHY: Yes, sir.

10 JUDGE DUKES: -- to Heather, that
11 would be great. Then I'll make sure I get it and
12 get it done for you. So, that will conclude today's
13 record.

14 (Whereupon, the hearing was concluded
15 at 2:01 p.m.)
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Certificate of Reporter

I, Deborah S. Thomas, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, do hereby certify that I reported the hearing of 2017-CP-07-00327 Beaufort County v. Timothy A. Summerall, et al, on the 4th day of October, 2019: and that the foregoing pages constitute a true and correct transcription of the said hearing.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties connected with this action, nor am I financially interested in said cause.

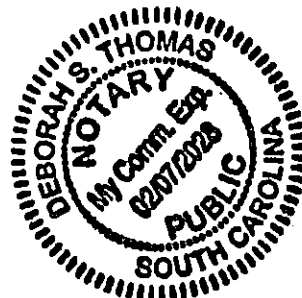
I further certify that the original of said transcript shall be hereafter delivered to Christopher L. Murphy, Esquire, Resnick & Louis, PC, 146 Fairchild Street, Suite 130, Charleston, South Carolina 29492.

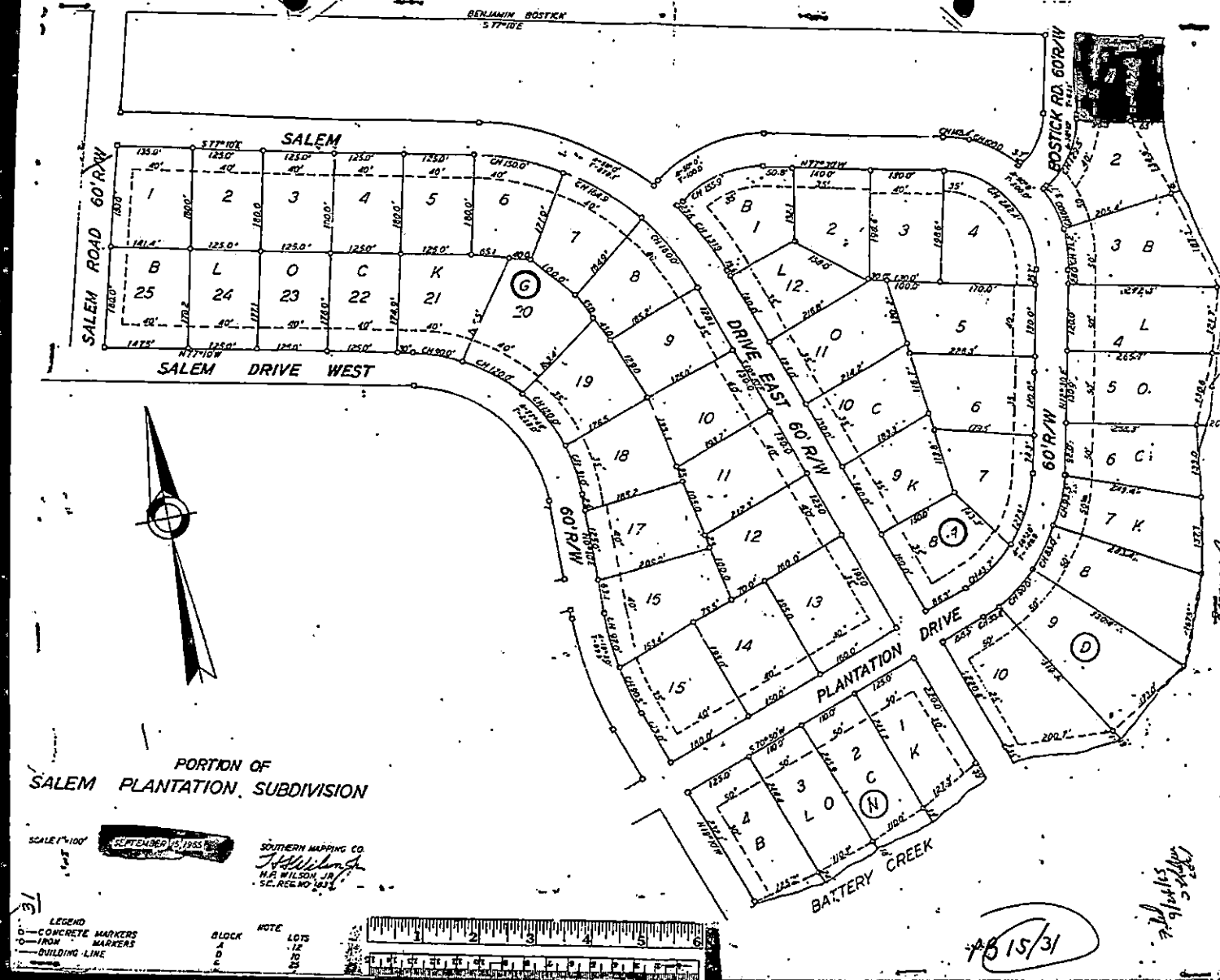
In witness whereof I set my hand and seal this 11th day of October, 2019.



Deborah S. Thomas, CVRM
and Notary Public for the
State of South Carolina

My Commission
expires 2/7/28





RECORD 0226

EXHIBIT

A

Burke & Co. 3000

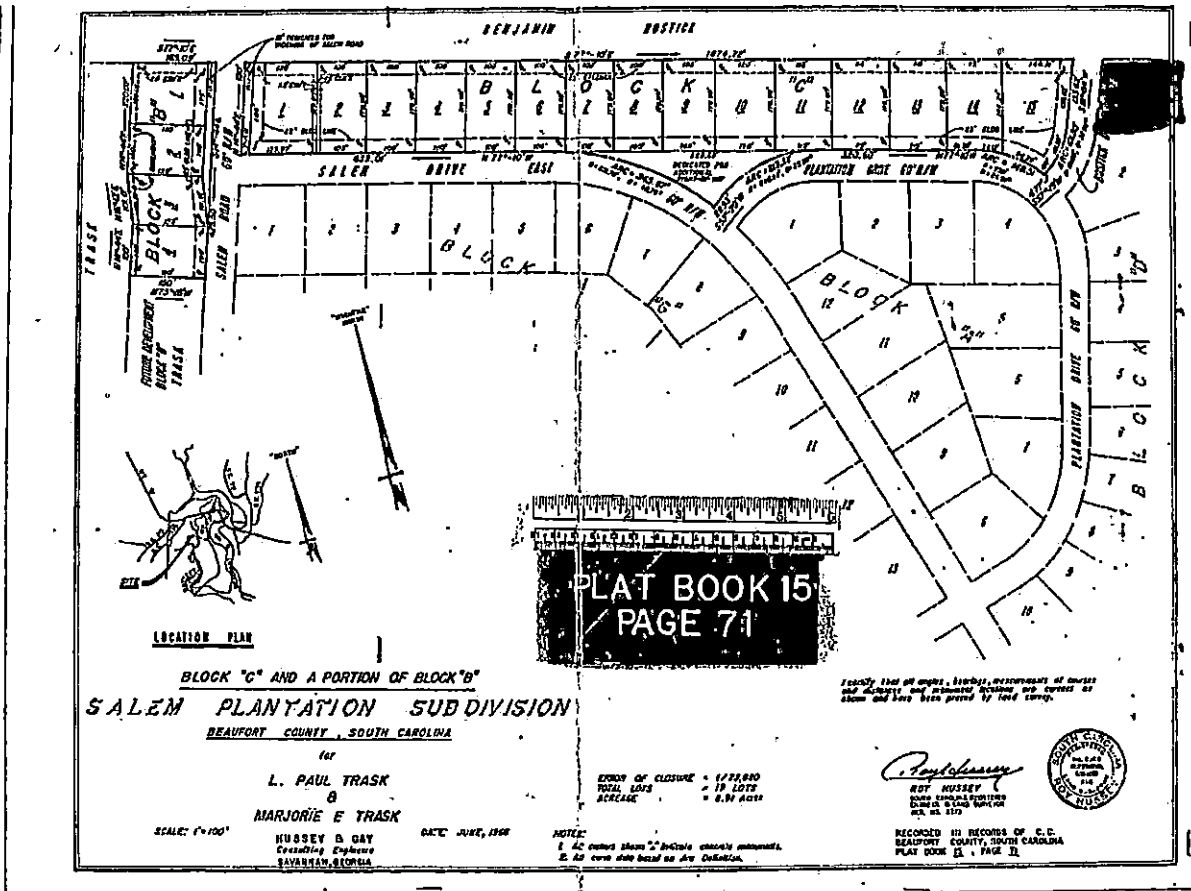


EXHIBIT
B

Blumberg No. 5208

NC RE Engineering

BEAUFORT COUNTY SC-ROD
BK 02275 PGS 1004-1607
DATE: 11/20/2005 02:22:43 PM
INST # 2005100888 RCPT# 370910

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, THAT MARJORIE F. TRASK AND THE ESTATE OF L. PAUL TRASK, SR. BY PERSONAL REPRESENTATIVE, L. PAUL TRASK, JR., in the State aforesaid, for and in consideration of the sum of TEN AND NO1/00 (\$10.00) DOLLARS and no other valuable consideration, to us in hand paid at and before the sealing of these presents by BEAUFORT COUNTY, POST OFFICE BOX 1228, BEAUFORT, SOUTH CAROLINA 29901-1228, in the State aforesaid, for which the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said BEAUFORT COUNTY, its Successors and assigns forever, the following described real property, to-wit:

SEE ATTACHED PROPERTY DESCRIPTION AS EXHIBIT "A"

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said Premises before mentioned unto the said BEAUFORT COUNTY, its Successors and assigns forever.

AND, we do hereby bind ourselves and our Heirs, Assigns, Executors and Administrators, to warrant and forever defend, all and singular, the said Premises

(Por. of) R100 029 00A 0001 0000

RECORDED
2005 Jan -03 12:22 PM
Sharon Q. Bunn
BEAUFORT COUNTY AUDITOR

ADD DMP Record 1/3/2006 11:51:01 AM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R100 029 00A 0401 0000 00

Book2275/Page1604

EXHIBIT
C

unto the said BEAUFORT COUNTY, its Successors and Assigns, against us and our Heirs and Assigns, forever and all other persons lawfully claiming or to claim the same, or any part thereof.

WITNESS my Hand and Seal this 27th ^{September} day of May, 2005.

SIGNED SEALED AND DELIVERED
IN THE PRESENCE OF:

Sandi J. Stiles

Sandi J. Stiles

Thomas J. Keamy

Marjorie F. Trask (SEAL)
MARJORIE F. TRASK

L. Paul Trask, Jr. (SEAL)
L. Paul Trask, Jr. as Personal
Representative of the Estate of L. Paul
Trask, Sr.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, Thomas J. Keamy, do hereby certify that Marjorie F. Trask and L. Paul Trask, Jr. as Personal Representative of the Estate of L. Paul Trask, Sr., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 27th ^{September} day of May, 2005.

Thomas J. Keamy
Notary Public of South Carolina
My commission expires: 3/19/06

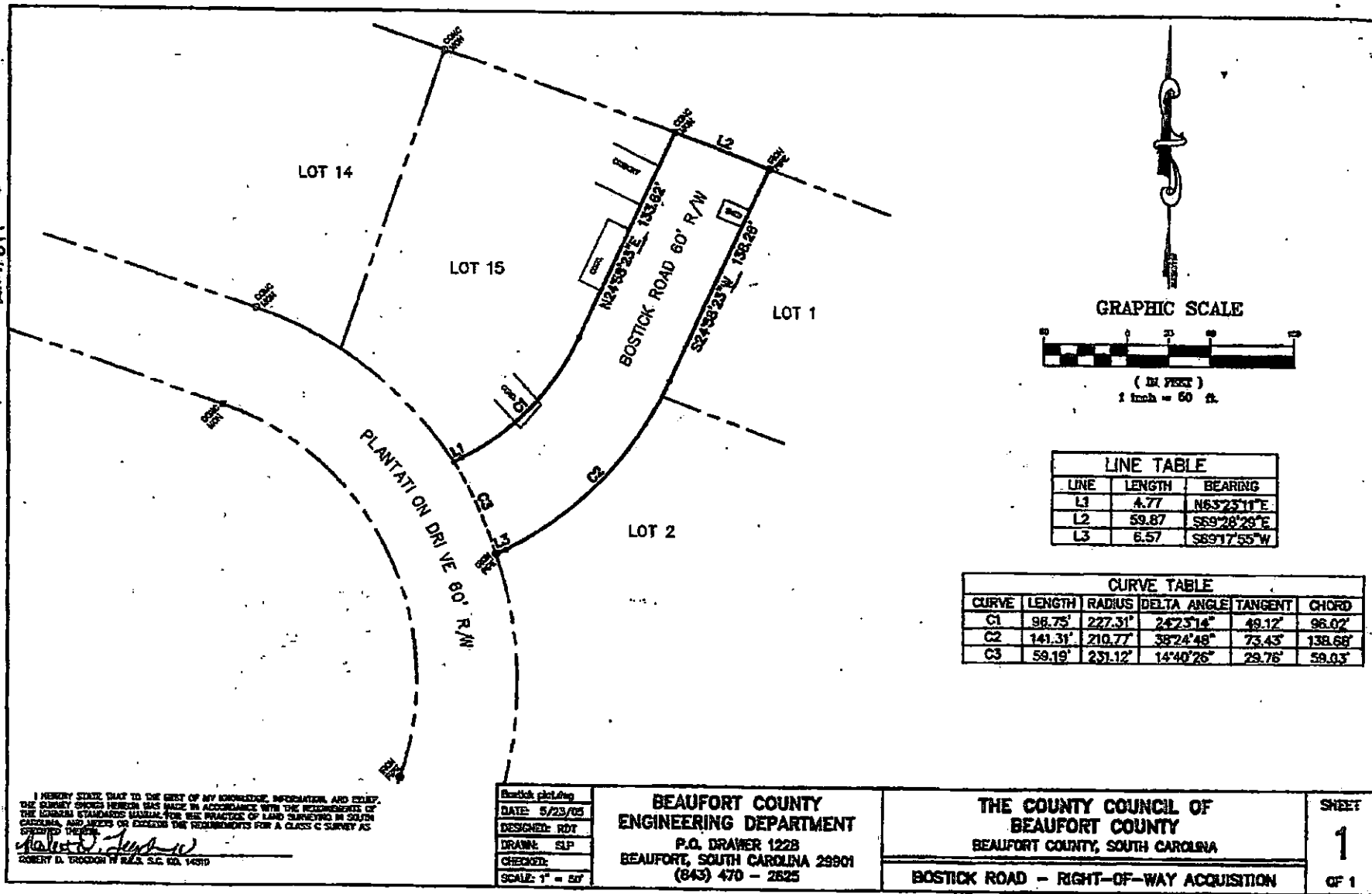
EXHIBIT "A"

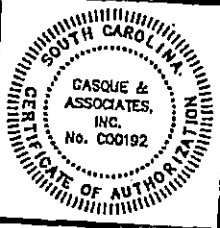
All that certain, piece, parcel or lot of land, situate, lying and being in Beaufort County, Salem Plantation, South Carolina being more particularly shown as Bostick Road 60' Right of Way on a drawing prepared by Robert D. Trogdon, R.L.S. dated May 23, 2005 and is attached hereby as Exhibit "B".

This being a portion of the same property conveyed to within Grantors by deed recorded in the Office of the Register of Deeds for Beaufort County in Deed Book 100 at Page 85.

This deed was prepared by the law firm of Howell, Gibson and Hughes, P.A., Post Office Box 40, Beaufort, South Carolina 29901-0040.

TMP: No TMP as property is a road

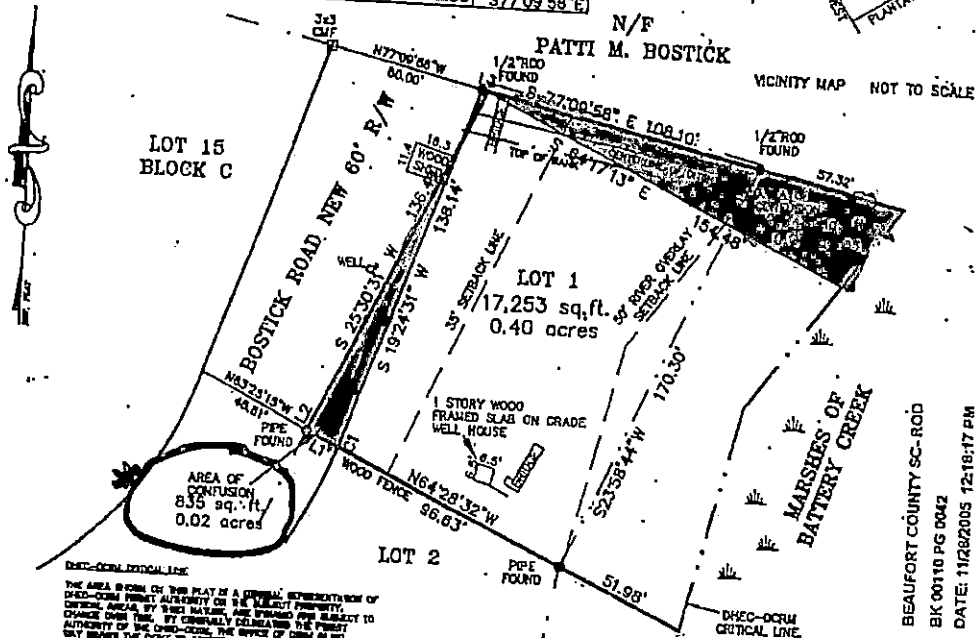
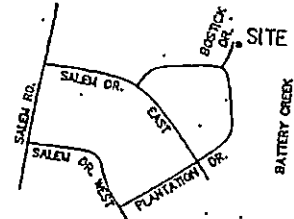




GASQUE & ASSOCIATES INC.
LAND SURVEYORS & PLANNERS

28 PROFESSIONAL VILLAGE CIRCLE, BEAUFORT, S.C.
 P.O. BOX 1363, BEAUFORT, S.C.
 PHONE (843) 522-1788

LINE TABLE		
LINE	LENGTH	BEARING
L1	13.38	N84°28'32"W
L2	10.00	S25°30'36"W
L3	2.30	S77°09'58"E



THE AREA SHOWN ON THIS PLAT IS A GENERAL REPRESENTATION OF THE AREA FROM AERIAL PHOTOGRAPHS AND FIELD SURVEY. IT IS NOT A GUARANTEE OF THE ACCURACY OF THE SURVEY. THE SURVEYOR HAS NOT CONDUCTED A FIELD SURVEY OF THE AREA SHOWN ON THIS PLAT. THE SURVEYOR HAS NOT CONDUCTED A FIELD SURVEY OF THE AREA SHOWN ON THIS PLAT. THE SURVEYOR HAS NOT CONDUCTED A FIELD SURVEY OF THE AREA SHOWN ON THIS PLAT.

NOTE THIS SURVEY DOES NOT MATCH THE PLAT OF RECORDED
 NOTE: PHASE PLATS OF SUBDIVISION DO NOT AGREE

CURVE TABLE			
CURVE	LENGTH	RADIUS	TANGENT
C1	8.68	209.11	4.34

ASBUILT SURVEY PREPARED FOR
ALAN WILLIAMS & MELANIE WILLIAMS

BEING LOT 1, BLOCK D, SALEM PLANTATION SUBDIVISION, AS SHOWN ON A PLAT BY H. F. WILSON, JR. DATED: 09/15/81 AND RECORDED IN PLAT BOOK 16, PAGE 31, AND A PLAT BY ROY RUSSBY AND IS RECORDED IN PLAT BOOK 16 PAGE 71 BEAUFORT COUNTY REC OFFICE
 TAX MAP 100-29A-0014

LOCATED ON PORT ROYAL ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA.

THE CERTIFIER HAS NOT INVESTIGATED OR BEEN INSTRUCTED TO INVESTIGATE THE EXISTENCE OR NONEXISTENCE OF ANY OVERLAY DISTRICTS, SUCH AS: AIRPORT, MILITARY, NOISE, CRASH POTENTIAL OR ENVIRONMENTAL ISSUES.

CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.

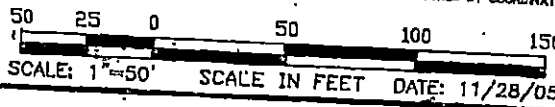
THIS PLAT IS COPYRIGHTED AND IS INTENDED ONLY FOR THE ENTITY OR PERSON(S) SHOWN HERE ON THE RESULT OF A TITLE SEARCH.

BEFORE ANY DESIGN WORK OR CONSTRUCTION ON THIS SITE IS STARTED FLOOD ZONE INFORMATION MUST BE VERIFIED BY THE APPROPRIATE BUILDING CODES OFFICIAL.

THIS PROPERTY APPEARS TO LIE IN FLOOD ZONE "C" & A-8 (EL. 13.00) AS DETERMINED BY FEMA FIRM COMM-PANEL NUMBER 460025 0085 D. DATED: 08/29/86. (INDEX DATED: 11/04/92.)

THE UNDERSIGNED DOES NOT CERTIFY THAT THE PROPERTY SHOWN HEREON COMPLIES WITH ANY RESTRICTIVE CONVEYANCES OR ANY CITY AND/OR COUNTY ORDINANCES.

I, DAVID E. GASQUE, HEREBY CERTIFY TO ALAN WILLIAMS & MELANIE WILLIAMS THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO ENCUMBRANCES OR PROJECTIONS OTHER THAN SHOWN. THIS SURVEY IS NOT VALID UNLESS IT BEARS THE ORIGINAL SIGNATURE AND HAS AN EMBOSSED SEAL. AREA DETERMINED BY COORDINATE METHOD.



DAVID E. GASQUE, P.L.S. JOB # 30007-REV
 S.C. REGISTRATION NUMBER 10508 FB#888/TP DSON#2
 THIS PLAT IS NOT BINDING UNLESS ACCOMPANIED BY AN ORIGINAL SIGNATURE AND AN EMBOSSED SEAL.

Book110/Page42



3 NC 40
Beaufort County

3073 @ 3015

BL Staff Attorney
RIV #1

BEAUFORT COUNTY SC- ROD
BK 03073 PGS 3015-3017
DATE: 07/28/2011 04:50:30 PM
INST # 2011037770 RCPT# 652821

RECORDED
STATE OF SOUTH CAROLINA 2011 Aug -08 09:20 AM
COUNTY OF BEAUFORT Sharon D. Burge
BEAUFORT COUNTY AUDITOR

QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, THAT LEONARD A. & MELANIE N. WILLIAMS in consideration of the premises and also in consideration of the sum of **one (\$1.00) DOLLAR**, to us in hand paid at and before the sealing of these presents, the receipt whereof is hereby acknowledged, have remised, released and forever quit-claimed, and by these presents do remise, release and forever quit-claim unto the said **BEAUFORT COUNTY, SOUTH CAROLINA**, the following described real property:

Being as much area as necessary, but in no event greater than three point three eight (3.38) feet of said part and parcel described as "areas of confusion" on a plat prepared for Alan Williams and Melanie Williams by Gasque & Associates, Inc., so as to clearly establish a fifty (50) foot right of way, identified as Bostick Road. Recorded in page book 110 and page 42 and a copy of attached as Exhibit A.

Grantee's address: Beaufort County Portion of DMP#R100 029 00A 0014 0000
Attn: Legal Department
P.O. Box 1228
Beaufort, SC 29901

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said premises before mentioned unto the said **BEAUFORT COUNTY, SOUTH CAROLINA**, their heirs and assigns forever so that neither we nor our heirs nor any other person or persons, claiming under us or them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever.

WITNESS our Hand and Seal this 11th day of July, in the year of our Lord 2011.
Carol M. Meyers

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF**

Laura L. Cording
Witness

[Signature]
Witness

LEONARD A. WILLIAMS
[Signature]

MELANIE N. WILLIAMS
[Signature]

ADD DMP Record 8/1/2011 09:11:46 AM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R100 029 00A 0401 0000 00

EXHIBIT
E

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

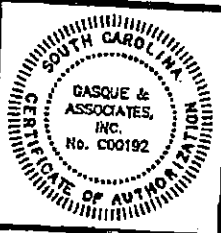
I, Coral M. Myers, do hereby certify that
Leonard Alan & Michael Williams personally appeared before me this day
and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 11th day of July, 2011.

Coral M. Myers
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: December 23, 2012

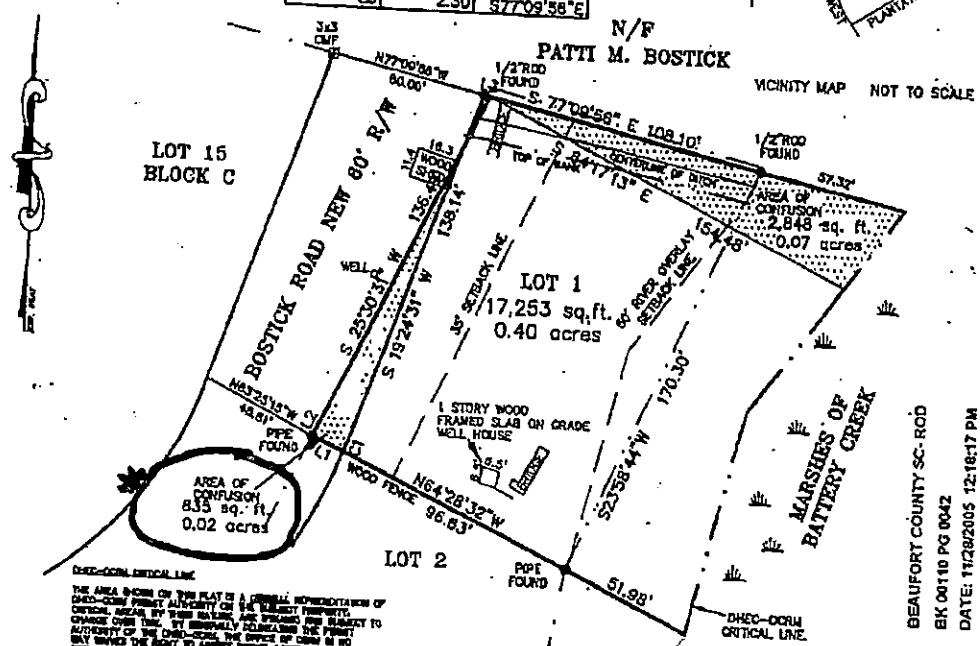
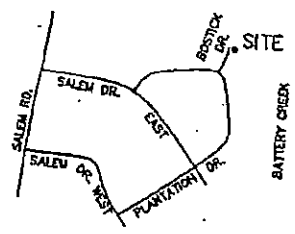
Approved by County Attorney

Joshua A. Gruber



GASQUE & ASSOCIATES INC.
LAND SURVEYORS & PLANNERS
 28 PROFESSIONAL VILLAGE CIRCLE, BEAUFORT, S.C.
 P.O. BOX 1353, BEAUFORT, S.C.
 PHONE (843) 822-1788

LINE TABLE		
LINE	LENGTH	BEARING
L1	13.38	N84°28'32"W
L2	10.00	S25°30'36"W
L3	2.30	S77°09'58"E

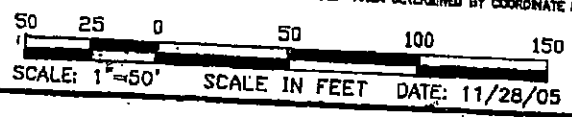


THE AREA SHOWN ON THIS PLAT IS A GENERAL REPRESENTATION OF THE-OWNED PROPERTY OF THE SURVEYOR. IT IS NOT INTENDED TO BE A GUARANTEE OF THE ACCURACY OF THE SURVEY. THE SURVEYOR ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS. THE SURVEYOR'S OFFICE IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE SURVEYOR'S OFFICE IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS.

NOTE THIS SURVEY DOES NOT MATCH THE PLAT OF RECORDED
 NOTE: PHASE PLATS OF SUBDIVISION DO NOT AGREE

CURVE TABLE			
CURVE	LENGTH	RADIUS	TANGENT
C1	8.68	209.11	4.34

ASBUILT SURVEY PREPARED FOR
ALAN WILLIAMS & MELANIE WILLIAMS
 BEING LOT 1, BLOCK D, SALEM PLANTATION SUBDIVISION, AS SHOWN ON A PLAT BY H. F. WILSON, JR. DATED: 09/16/81 AND RECORDED IN PLAT BOOK 16, PAGE 31, AND A PLAT BY ROY HUSSY AND IS RECORDED IN PLAT BOOK 15 PAGE 71 BEAUFORT COUNTY REC OFFICE
 TAX MAP 100-29A-0014
 LOCATED ON PORT ROYAL ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA
 THE CERTIFIER HAS NOT INVESTIGATED OR BEEN INSTRUCTED TO INVESTIGATE THE EXISTENCE OR NONEXISTENCE OF ANY OVERLAY DISTRICTS, SUCH AS: AIRPORT, MILITARY, NOISE, CRASH POTENTIAL OR ENVIRONMENTAL ISSUES.
 CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.
 THIS PLAT IS COPYRIGHTED AND IS INTENDED ONLY FOR THE ENTITY OR PERSON(S) SHOWN HERE ON.
 THIS PLAT REPRESENTS A SURVEY BASED ON THE LISTED REFERENCES ONLY AND IS NOT THE RESULT OF A TITLE SEARCH.
 BEFORE ANY DESIGN WORK OR CONSTRUCTION ON THIS SITE IS STARTED FLOOD ZONE INFORMATION MUST BE VERIFIED BY THE APPROPRIATE BUILDING CODES OFFICIAL.
 THIS PROPERTY APPEARS TO LIE IN FLOOD ZONE "C" & A-B (EL.13.00) AS DETERMINED BY FEMA FIRM COMM.-PANEL NUMBER 480025 0086 D, DATED: 09/29/80. (INDEX DATED: 11/04/82.)
 THE UNDERSIGNED DOES NOT CERTIFY THAT THE PROPERTY SHOWN HEREON COMPLIES WITH ANY RESTRICTIVE CONVEYANCES OR ANY CITY AND/OR COUNTY ORDINANCES.
 I, DAVID E. GASQUE, HEREBY CERTIFY TO ALAN WILLIAMS & MELANIE WILLIAMS THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN. THIS SURVEY IS NOT VALID UNLESS IT BEARS THE ORIGINAL SIGNATURE AND HAS AN EMBOSSED SEAL. AREA DETERMINED BY COORDINATE METHOD.



DAVID E. GASQUE, D.L.S.
 S.C. REGISTRATION NUMBER 10689 FB#888/TP
 THIS PLAT IS NOT BINDING UNLESS ACCOMPANIED BY AN ORIGINAL SIGNATURE AND AN EMBOSSED SEAL.

2-10-11
Mick
R. King

3080 @ 655

Return to: Joshua H. Carver
BC Staff Attorney
BIV #1

2011 Aug -30 09:22 AM
Sharon D. Benis
BEAUFORT COUNTY AUDITOR

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

QUIT CLAIM DEED

08-26-2011

KNOW ALL MEN BY THESE PRESENTS, THAT BEAUFORT COUNTY, SOUTH CAROLINA in consideration of the premises and also in consideration of the sum of **one (\$1.00) DOLLAR**, to us in hand paid at and before the sealing of these presents by **LEONARD A. & MELANIE N. WILLIAMS** the receipt whereof is hereby acknowledged, have remised, released and forever quit-claimed, and by these presents do remise, release and forever quit-claim unto the said **LEONARD A. & MELANIE N. WILLIAMS**, the following described real property:

Being as much area as necessary, but in no event greater than ten (10) feet of said part and parcel described as "areas of confusion" on a plat prepared for Alan Williams and Melanie Williams by Gasque & Associates, Inc., so as to clearly establish a fifty (50) foot right of way, identified as Bostick Road and recorded in book 110 at page 42, a copy of which is attached as Exhibit "A."

Portion of DMP#R100 029 00A 0014 0000

Grantee's address: Leonard and Melanie Williams
2 Bostick Road
Beaufort, SC 29902

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said premises before mentioned unto the said **BEAUFORT COUNTY, SOUTH CAROLINA**, their heirs and assigns forever so that neither we nor our heirs nor any other person or persons, claiming under us or them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever.

WITNESS our Hand and Seal this 23rd day of August, in the year of our Lord 2011.

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF**

GARY KUBIC, ADMINISTRATOR

Cheryl Harris
Witness

Gary Kubic

Joe Harvato
Witness

ADD DMP Record: 8/29/2011 03:15:46 PM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R100 029 00A 0014 0000 00

BEAUFORT COUNTY SC- ROD
BK 03080 PGS 0655-0657
DATE: 08/26/2011 11:14:02 AM
INST # 2011042916 RCPT# 654924

EXHIBIT
F

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

I, Suzanne N. Riva, do hereby certify that
Gary Kubic, Beaufort County Administrator personally appeared before me this day
and acknowledged the due execution of the foregoing instrument.

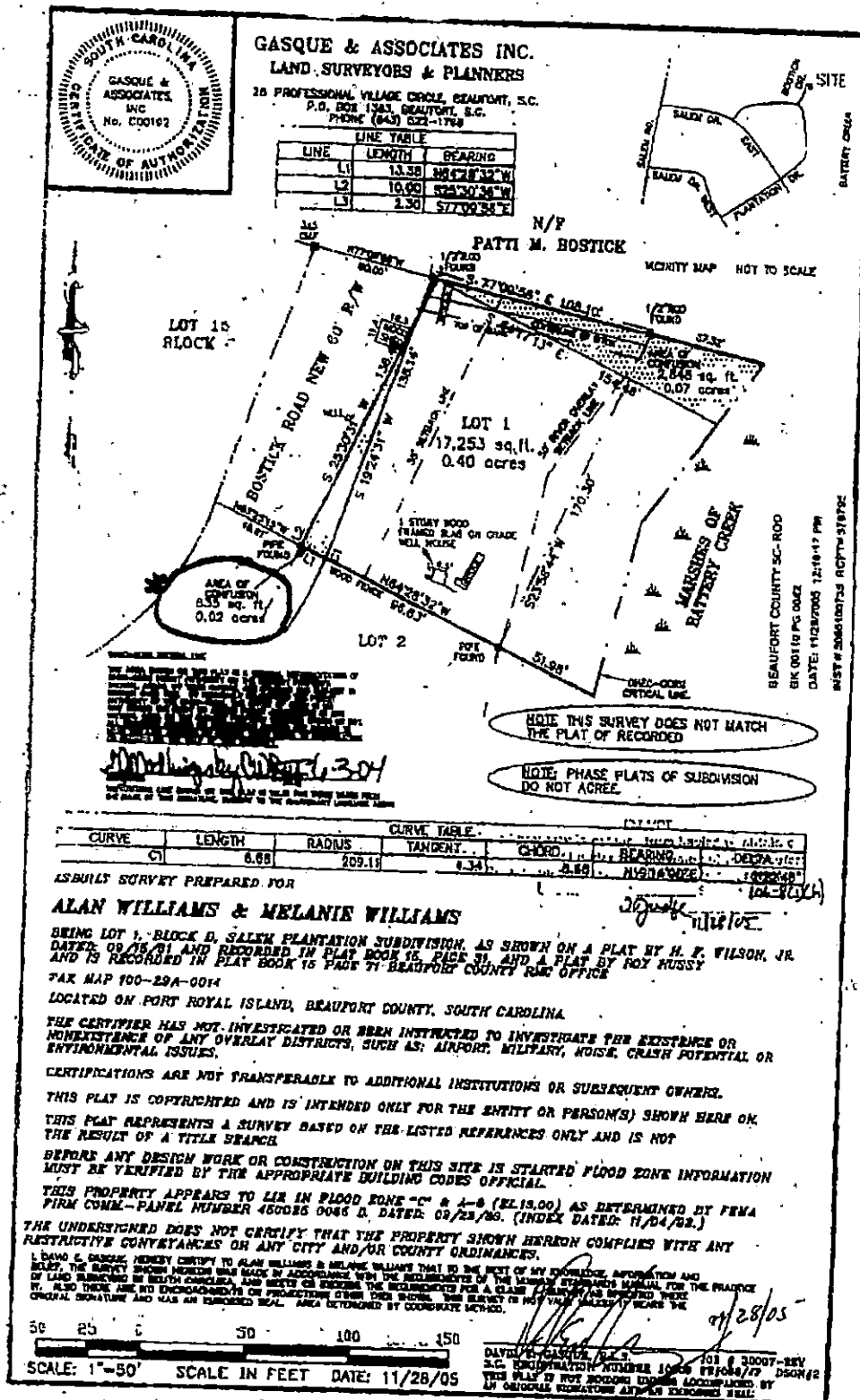
Witness my hand and official seal this 23rd day of August 2011.

Suzanne N. Riva
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: June 14, 2015

Approved by County Attorney

JOSHUA A. GRUBER

EXHIBIT "A"



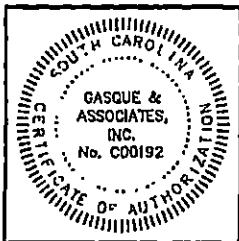
Book 110/Page 42

Book3073/Page3017

Book3080/Page657

RECORD 0238

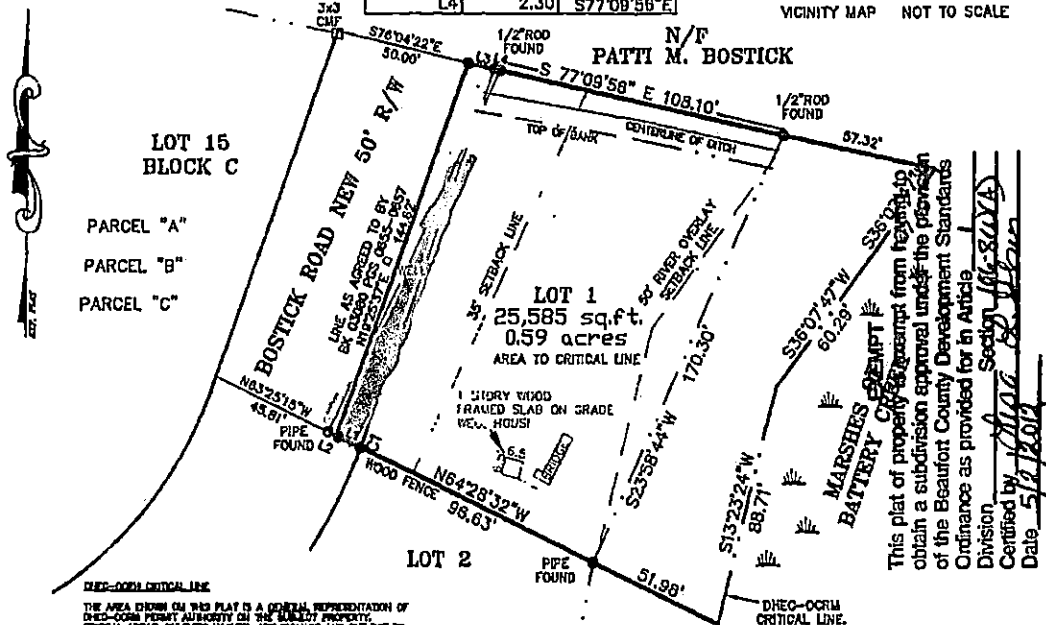
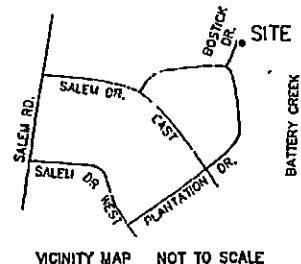
Correct



GASQUE & ASSOCIATES INC.
LAND SURVEYORS & PLANNERS

28 PROFESSIONAL VILLAGE CIRCLE, BEAUFORT, S.C.
P.O. BOX 1383, BEAUFORT, S.C.
PHONE (843) 522-1788

LINE TABLE		
LINE	LENGTH	BEARING
L1	10.00	N84°28'32"W
L2	3.38	N84°28'32"W
L3	8.94	N77°08'56"W
L4	2.30	S77°08'56"E



THE AREA SHOWN ON THIS PLAT IS A GRAPHIC REPRESENTATION OF THE PROPERTY OWNED BY THE SURVEYOR. THE PROPERTY IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE SURVEYOR IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE SURVEYOR IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS.

DATE: 4-27-12
THE CRITICAL LINE SHOWN ON THIS PLAT IS VALID FOR THREE YEARS FROM THE DATE OF THIS SIGNATURE, SUBJECT TO THE CAUTIONARY LANGUAGE ABOVE.

NOTE THIS SURVEY DOES NOT MATCH THE PLAT OF RECORDED
NOTE: PHASE PLATS OF SUBDIVISION DO NOT AGREE.

CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C1	8.68	208.11	4.34	8.68	N19°14'00"E	2°22'48"

ASBUILT SURVEY PREPARED FOR **ALAN WILLIAMS & MELANIE WILLIAMS** BEAUFORT COUNTY SC- ROD BK 00134 PG 0115

BEING LOT 1, BLOCK D, SALEM PLANTATION SUBDIVISION, AS SHOWN ON A PLAT BY H. F. WILSON, JR. DATED: 09/15/81 AND RECORDED IN PLAT BOOK 15, PAGE 31, AND A PLAT BY ROY HUSSY AND IS RECORDED IN PLAT BOOK 15 PAGE 71 BEAUFORT COUNTY REC OFFICE

TAX MAP 100-29A-0014 DATE: 05/02/2012 02:33:42 PM
LOCATED ON PORT ROYAL ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. INST # 2012024360 RCPT# 675482

THE CERTIFIER HAS NOT INVESTIGATED OR BEEN INSTRUCTED TO INVESTIGATE THE EXISTENCE OR NONEXISTENCE OF ANY OVERLAY DISTRICTS, SUCH AS: AIRPORT, MILITARY, NOISE, CRASH POTENTIAL OR ENVIRONMENTAL ISSUES.

CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.

THIS PLAT IS COPYRIGHTED AND IS INTENDED ONLY FOR THE ENTITY OR PERSON(S) SHOWN HERE ON.

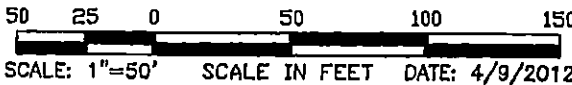
THIS PLAT REPRESENTS A SURVEY BASED ON THE LISTED REFERENCES ONLY AND IS NOT THE RESULT OF A TITLE SEARCH.

BEFORE ANY DESIGN WORK OR CONSTRUCTION ON THIS SITE IS STARTED FLOOD ZONE INFORMATION MUST BE VERIFIED BY THE APPROPRIATE BUILDING CODES OFFICIAL.

THIS PROPERTY APPEARS TO LIE IN FLOOD ZONE "C" & A-B (SL13.00) AS DETERMINED BY FEMA FIRM COMM-PANEL NUMBER 450025 0065 D. DATED: 08/29/88. (INDEX DATED: 11/04/82.)

THE UNDERSIGNED DOES NOT CERTIFY THAT THE PROPERTY SHOWN HEREON COMPLIES WITH ANY RESTRICTIVE CONVEYANCES OR ANY CITY AND/OR COUNTY ORDINANCES.

I, DAVID E. GASQUE, HEREBY CERTIFY TO ALAN WILLIAMS & MELANIE WILLIAMS THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN. THIS SURVEY IS NOT VALID UNLESS IT BEARS THE ORIGINAL SIGNATURE AND HAS AN EMBOSSED SEAL. AREA DETERMINED BY COORDINATE METHOD.



DAVID E. GASQUE, R.L.S. JOB # 30007-REV2
S.C. REGISTRATION NUMBER 10500 PD/088/JP DSGN#7
THIS PLAT IS NOT BINDING UNLESS ACCOMPANIED BY AN ORIGINAL SIGNATURE AND AN EMBOSSED SEAL.

2012 plat



4
10 PB
R. Williams

BEAUFORT COUNTY SC- ROD
BK 03303 PGS 2104-2107
DATE: 02/13/2014 04:31:57 PM
INST # 2014006882 RCPT# 735545

RECORDED
2014 Feb -25 03:47 PM
Sharon O. Burrell
BEAUFORT COUNTY AUDITOR

COUNTY TAX 104.50
STATE TAX 247.00

This Deed was prepared by Mikell, Weldner, Wegmann & Harper, LLC
6 Professional Village Circle, Beaufort, South Carolina 29907, without
benefit of title examination and without title certification.

R100-029-00A-0014-0000

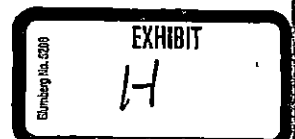
STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT) WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, THAT we, Leonard A. Williams and Melanie N. Williams in the State aforesaid, for and in consideration of the sum of NINETY FIVE THOUSAND AND NO/100 (\$95,000.00) DOLLARS, to us in hand paid at and before the sealing of these presents by Timothy A. Summerall (hereinafter "Grantee"), whose address is 89 Bostick Circle, Beaufort, SC 29902, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release, subject to the easements, restrictions, reservations and conditions ("Exceptions"), set forth below unto the said Grantee, his Heirs and Assigns forever, the following described property, to-wit:

SEE ATTACHED FOR LEGAL DESCRIPTION

THIS CONVEYANCE IS MADE SUBJECT TO: All covenants, restrictions, easements and rights of ways affecting the property.

ADD DMP Record 2/18/2014 05:05:09 PM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R100 029 00A 0014 0000 00



TOGETHER with, subject to the above Exceptions, all and singular rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, subject to the above Exceptions, all and singular the said Premises before mentioned unto the said Grantee, his Heirs and Assigns, forever, and we do hereby bind ourselves and our Heirs, Executors and Administrators, to warrant and forever defend all and singular the said Premises, subject to the above Exceptions, unto the said Grantee, as hereinabove provided against ourselves and our Heirs and any person or persons whomsoever lawfully claiming or to claim the same, or any part thereof.

IN WITNESS WHEREOF, we have hereunto set our Hand(s) and Seal(s), this 10 day of

February, 2014.

(2) [Signature]
Signature of 1st Witness

(1) [Signature]
Leonard A. Williams

(3) [Signature]
Signature of 2nd Witness/Notary

(1) [Signature]
Melanie N. Williams

STATE OF SC

COUNTY OF Franklin

)
)
) ACKNOWLEDGMENT

I, the undersigned Notary, do hereby certify that Leonard A. Williams and Melanie N. Williams, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 10th day of February, 2014.

(4) [Signature] (SEAL)

Signature of Notary Public

NOTARY PUBLIC FOR: SC

My Commission Expires: 2/24/14

Instructions for Execution of Document
(Please follow carefully - and Use Blue Ink Only)

- A. Grantors sign on lines numbered (1).
- B. Two (2) disinterested Witnesses sign on lines numbered (2) and (3). Notary may be one of the witnesses.
- C. Notary Public signs on line numbered (4) and affixes seal and expiration date.

LEGAL DESCRIPTION

ALL that certain piece, parcel or lot of land, with improvements thereon, situate, lying and being in Beaufort Township, Beaufort County, South Carolina, designated as Lot 1 of Block D on a plat of a portion of Salem Plantation Subdivision, prepared September 5, 1956, by H.F. Wilson, Jr., recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 15 at Page 31. For a more complete description of said property, reference may be had to that individual plat prepared by David E. Gasque, RLS, dated November 28, 2005, and recorded in Book 110 at Page 42 in the Office of the Register of Deeds for Beaufort County, South Carolina.

This property being herein is subject to any applicable Restrictions, Covenants, Easements or Rights of Way as set forth in the Office of the Register of Deeds for Beaufort County, South Carolina.

This being the same property conveyed to the within Grantors by Warranty Deed of Todd Carusillo and Kim Carusillo, recorded on December 2, 2005 in Book 2278 at Page 1951.

BEAUFORT COUNTY SC- ROD
BK 03303 PGS 2108-2111
DATE: 02/13/2014 04:31:57 PM
INST # 2014008984 RCPT# 735545

ADD OMP Record 2/28/2014 11:13:11 AM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R100 029 00A 0014 0000 00

RECORDED
2014 Mar -05 11:33 AM
Shawn O. Burrie
BEAUFORT COUNTY AUDITOR

This Deed was prepared by Mikell, Weidner, Wegmann & Harper, LLC
6 Professional Village Circle, Beaufort, South Carolina 29907, without
benefit of title examination and without title certification.

R100-029-00A-0014-0000

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, THAT

We, Leonard A. Williams and Melanie N. Williams, (hereinafter "Grantor") in the State
aforementioned, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS, and no
other valuable consideration to me in hand paid at and in before the sealing of these presents by
Timothy A. Summerall, 89 Bostick Circle, Beaufort, SC 29902, the receipt whereof is hereby
acknowledged, has granted, bargained, sold and released, and by these presents do quit-claim, grant,
bargain, sell and release unto the said Timothy A. Summerall, his Heirs and Assigns forever, all of my
undivided interest in the following described real property, to-wit:

SEE ATTACHED EXHIBIT "A"

TOGETHER, with all and singular the rights, members, hereditaments and appurtenances to the
said premises belonging, or in any way incident or appertaining.



TO HAVE AND TO HOLD, all and singular, the said premises before mentioned unto the said Grantee, his Heirs and Assigns, forever -- so that neither the said Grantors, nor their Heirs, Successors and Assigns, nor any other person or persons claiming under them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever.

IN WITNESS WHEREOF, we have hereunto set our Hand(s) and Seal(s). this 10 day of

February, 2014.

(2) [Signature]
Signature of 1st Witness

(1) [Signature]
Leonard A. Williams

(3) [Signature]
Signature of 2nd Witness/Notary

(1) [Signature]
Melanie N. Williams

STATE OF Sc
COUNTY OF Franklin

ACKNOWLEDGMENT

I, the undersigned Notary, do hereby certify that Leonard A. Williams and Melanie N. Williams, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 10 day of February, 2014.

(4) [Signature] (SEAL)
Signature of Notary Public
NOTARY PUBLIC FOR: Sc
My Commission Expires: 2/24/14

Instructions for Execution of Document
(Please follow carefully - and Use Blue Ink Only)

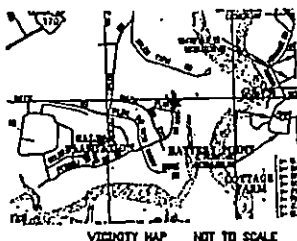
- A. Grantors sign on lines numbered (1).
- B. Two (2) disinterested Witnesses sign on lines numbered (2) and (3). Notary may be one of the witnesses.
- C. Notary Public signs on line numbered (4) and affixes seal and expiration date.

LEGAL DESCRIPTION

ALL that certain piece, parcel or lot of land, with improvements thereon, situate, lying and being in Beaufort Township, Beaufort County, South Carolina, designated and shown as 0.07 acres, more or less and 0.02 acres, more or less on that individual plat prepared by David E. Gasque, RLS, dated November 28, 2005, recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 110 at Page 42. AND ALSO, any area east of the prior critical line as shown on that individual plat prepared by David E. Gasque, RLS, dated November 28, 2005, recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 110 at Page 42, said critical line as revised and shown on that individual plat prepared by David S. Youmans, RLS, dated February 4, 2014, a copy of which is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 138 at Page 161.

This property being herein is subject to any applicable Restrictions, Covenants, Easements or Rights of Way as set forth in the Office of the Register of Deeds for Beaufort County, South Carolina.

This being the same property conveyed to the within Grantors by Quit Claim Deed of Patti Major Bostick, recorded October 26, 2010 in Book 3004 at Page 372 and Quit Claim Deed of Beaufort County, South Carolina recorded on August 26, 2011 in Book 3080 at Page 655 in the Office of the Register of Deeds for Beaufort County, South Carolina.

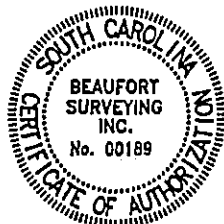


NO.	DELTA	RADIUS	ARC	TANGENT	C.BEARING	CHORD
1	2°39'01"	216.02'	9.99'	5.00'	N14°09'30"E	9.99'
2	2°09'15"	206.02'	7.75'	3.87'	N13°54'41"E	7.75'

THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT POINT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS BY THEIR NATURE, ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME BY DELINEATING THE POINT AUTHORITY OF THE DEPARTMENT, THE DEPARTMENT IN NO WAY WAIVES ITS RIGHT TO ASSERT POINT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREON OR NOT.

Signature 2/10/14
DATE

The critical line shown on this plat is valid for five years from the date of this signature, subject to the cautionary language above.



BEAUFORT COUNTY SC-ROD

BK 00138 PG 0061

DATE: 02/13/2014, 04:31:57 PM

INST # 2014006983, RCRT# 735545

NO.	BEARING	DISTANCE
AA	S77°10'00"E	10.00'
AB	S43°24'46"W	8.17'
AC	S49°37'40"W	28.41'
AD	S16°32'42"W	25.34'
AE	S46°08'08"W	9.57'
AF	S47°59'28"E	17.03'
AG	S44°01'57"W	12.16'
AH	S15°53'34"W	17.48'
AI	S19°26'18"W	25.28'
AJ	S06°37'04"E	8.36'
AK	N64°25'57"W	10.16'

N/F BOSTICK

BATTERY CREEK

0.635 ACRES
0.033 ACRES
0.668 ACRES TOTAL

LOT LINE TO BE ABANDONED

PARCEL 'A' - 0.033 ACRES (1422 sq.ft.)

BOSTICK ROAD R/W VARIES
EXEMPT

This plat of property is exempt from having to obtain a subdivision approval under the provision of the Beaufort County Development Standards Ordinance as provided for in Article 1

Division 10-8(V)(2)
Certified by David S. Youmans
Date 2/13/2014

BOUNDARY SURVEY
PREPARED FOR
TIM SUMMERALL

BEAUFORT COUNTY, SOUTH CAROLINA

THE SAME BEING LOT 1, BLOCK D, SALEM PLANTATION SUBDIVISION AS SHOWN ON A PLAT BY H.F. WILSON, JR. DATED SEPT. 15, 1965 AND RECORDED IN THE REGISTER OF DEEDS OFFICE FOR BEAUFORT COUNTY, SOUTH CAROLINA IN PLAT BOOK 15, PAGE 31.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS B SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

THIS PROPERTY IS LOCATED IN ZONES C & A-8 (13.0) AS DETERMINED BY FEMA, FIRM COMMUNITY-PANEL NUMBER 450025 0065 D, DATED 9-29-86.

R100-029-00A-0014-0000

0 20' 40' 80' 120'

SCALE 1" = 40'

FEBRUARY 4, 2014
P15290/MMA

David S. Youmans RLS 9785
BEAUFORT SURVEYING, INC.
1613 PARIS AVENUE
PORT ROYAL, S.C. 29935
PHONE (843) 524-3261

incorrectly
added
to this
plat

ADD DMP Record 2/24/2014 10:05:17 AM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R100 029 00A 0014 0000 00

BEAUFORT COUNTY SC - RDD
BK 03304 PGS 2210-2212
FILE NUM 2014007824
02/20/2014 04:50:33 PM
REC'D BY R WEBB RCPT# 735992
RECORDING FEES 10.00

3 RW
Prepared By and Return to:
Raymond H. Williams, PA
800 Congress Street
Post Office Drawer 1027
Beaufort, SC 29901
Telephone: 843-521-5000
Fax: 843-521-3098
File No.: 14-0768

RECORDED
2014 Feb -25 04:19 PM
Sharon G. Beattie
BEAUFORT COUNTY AUDITOR

(Please do not write above this line -- Reserved for Register of Deeds Office)

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that TIMOTHY A. SUMMERALL (hereinafter "Grantor"), in the State aforesaid, for and in consideration of the sum of TEN DOLLARS 00/100 (\$10.00) AND NO OTHER VALUABLE CONSIDERATION, unto him paid by RAYMOND H. WILLIAMS (hereinafter "Grantee"), in the State aforesaid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released and by these presents does grant, bargain, sell, and release unto the said RAYMOND H. WILLIAMS, his heirs and assigns, forever, in fee simple, the following described property, to wit:

ALL that certain piece, parcel or lot of land, with any improvements thereon, situate, lying and being in Beaufort Township, Beaufort County, South Carolina, designated as Lot 1 of Block D on a plat of a portion of Salem Plantation Subdivision, prepared September 5, 1956 by H.F. Wilson, Jr., recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 15 at Page 31. For a more complete description of said property, reference may be had to that individual plat prepared by David S. Youmans, RLS, dated February 4, 2014 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 138 at Page 61.

Said property is conveyed subject to all applicable easements, obligations, restrictions, limitations and covenants of record in the Office of the Register of Deeds for Beaufort County, South Carolina, and all applicable amendments thereto.

DERIVATION: This being the same property conveyed to Timothy A. Summerall by deeds recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 3303 at Page 2104 and Book 3303 at Page 2108.

The within instrument was prepared by Raymond H. Williams, PA, 800 Congress Street, Post Office Drawer 1027, Beaufort, SC 29902.

Tax Map #: R100 029 00A 0014 0000

Property Address: 2 Bostick Road, Beaufort, SC 29902

Grantee(s) Address: 89 Bostick Circle, Beaufort, SC 29902



THIS CONVEYANCE IS MADE SUBJECT TO easements and restrictions of record and otherwise affecting the property.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Raymond H. Williams, his heirs and assigns, forever, in fee simple.

AND Grantor does hereby bind himself and his heirs and assigns, to warrant and forever defend all and singular the said premises unto the said Raymond H. Williams, his heirs and assigns, forever, in fee simple, against the Grantors' heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

IN WITNESS WHEREOF our Hands and Seals this 20th day of February, 2014.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Gal D. Clark
1st Witness

Timothy A. Summerall {L.S.}

[Signature]
2nd Witness

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

PROBATE

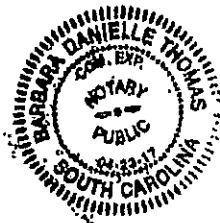
PERSONALLY appeared before me, a Notary Public for South Carolina, the undersigned witness and made oath that (s)he was present and saw the within Grantor sign, seal, and as his act and deed, deliver the within Warranty Deed; that deponent with the other witness whose name is subscribed above, witnessed the execution thereof.

SWORN to before me this
20th day of February, 2014.

Gal D. Clark
Witness

[Signature]

Notary Public for South Carolina
My Commission Expires: 4/23/2017



(SEAL)

ADD OMP Record 2/28/2014 11:27:49 AM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R100 029 00A 0014 0000 00

BEAUFORT COUNTY SC - ROD
BK 03304 PGS 2213-2215
FILE NUM 2014007825
02/20/2014 04:50:33 PM
REC'D BY R WEBB RCPT# 735992
RECORDING FEES 10.00

3/10
Prepared By and Return to:
Raymond H. Williams, PA
800 Congress Street
Post Office Drawer 1027
Beaufort, SC 29901
Telephone: 843-521-5000
Fax: 843-521-3098
File No.: 14-0768

RECORDED
2014 Mar-05 11:34 AM
Sharon W. Bennis
BEAUFORT COUNTY AUDITOR

(Please do not write above this line - Reserved for Register of Deeds Office)

STATE OF SOUTH CAROLINA)

WARRANTY DEED

COUNTY OF BEAUFORT)

KNOW ALL MEN BY THESE PRESENTS, that RAYMOND H. WILLIAMS (hereinafter "Grantor"), in the State aforesaid, for and in consideration of the sum of TEN DOLLARS 00/100 (\$10.00), unto me paid by TIMOTHY A. SUMMERALL (hereinafter "Grantee"), in the State aforesaid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released and by these presents does grant, bargain, sell, and release unto the said TIMOTHY A. SUMMERALL, his heirs and assigns, forever, in fee simple, the following described property, to wit:

ALL that certain piece, parcel or lot of land, with any improvements thereon, situate, lying and being in Beaufort Township, Beaufort County, South Carolina, designated as Lot 1 of Block D on a plat of a portion of Salem Plantation Subdivision, prepared September 5, 1956 by H.F. Wilson, Jr., recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 15 at Page 31. For a more complete description of said property, reference may be had to that individual plat prepared by David S. Youmans, RLS, dated February 4, 2014 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 138 at Page 61.

Said property is conveyed subject to all applicable easements, obligations, restrictions, limitations and covenants of record in the Office of the Register of Deeds for Beaufort County, South Carolina, and all applicable amendments thereto.

DERIVATION: This being the same property conveyed to Raymond H. Williams by deed recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 3304 at Page 2210.

The within instrument was prepared by Raymond H. Williams, PA, 800 Congress Street, Post Office Drawer 1027, Beaufort, SC 29902.

Tax Map #: R100 029 00A 0014 0000

Property Address: 2 Bostick Road, Beaufort, SC 29902

Grantee(s) Address: 89 Bostick Circle, Beaufort, SC 29902

Book3304/Page2213

RECORD 0252



THIS CONVEYANCE IS MADE SUBJECT TO easements and restrictions of record and otherwise affecting the property.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said **TIMOTHY A. SUMMERALL**, his heirs and assigns, forever, in fee simple.

AND Grantor does hereby bind himself and his heirs and assigns, to warrant and forever defend all and singular the said premises unto the said **TIMOTHY A. SUMMERALL**, his heirs and assigns, in fee simple, against the Grantor's heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

IN WITNESS WHEREOF my Hand and Seal this 20th day of February, 2014.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Dail G. Clark
1st Witness

Raymond H. Williams {L.S.}

[Signature]
2nd Witness

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

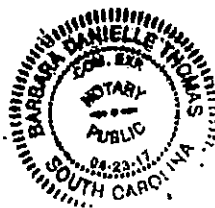
PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he was present and saw the within Grantor sign, seal, and as his act and deed, deliver the within Warranty Deed; that deponent with the other witness whose name is subscribed above, witnessed the execution thereof.

SWORN to before me this 20th
day of February, 2014.

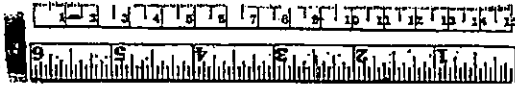
Dail G. Clark
Witness

[Signature]
Notary Public for South Carolina
My Commission Expires: 4/23/2017



(SEAL)

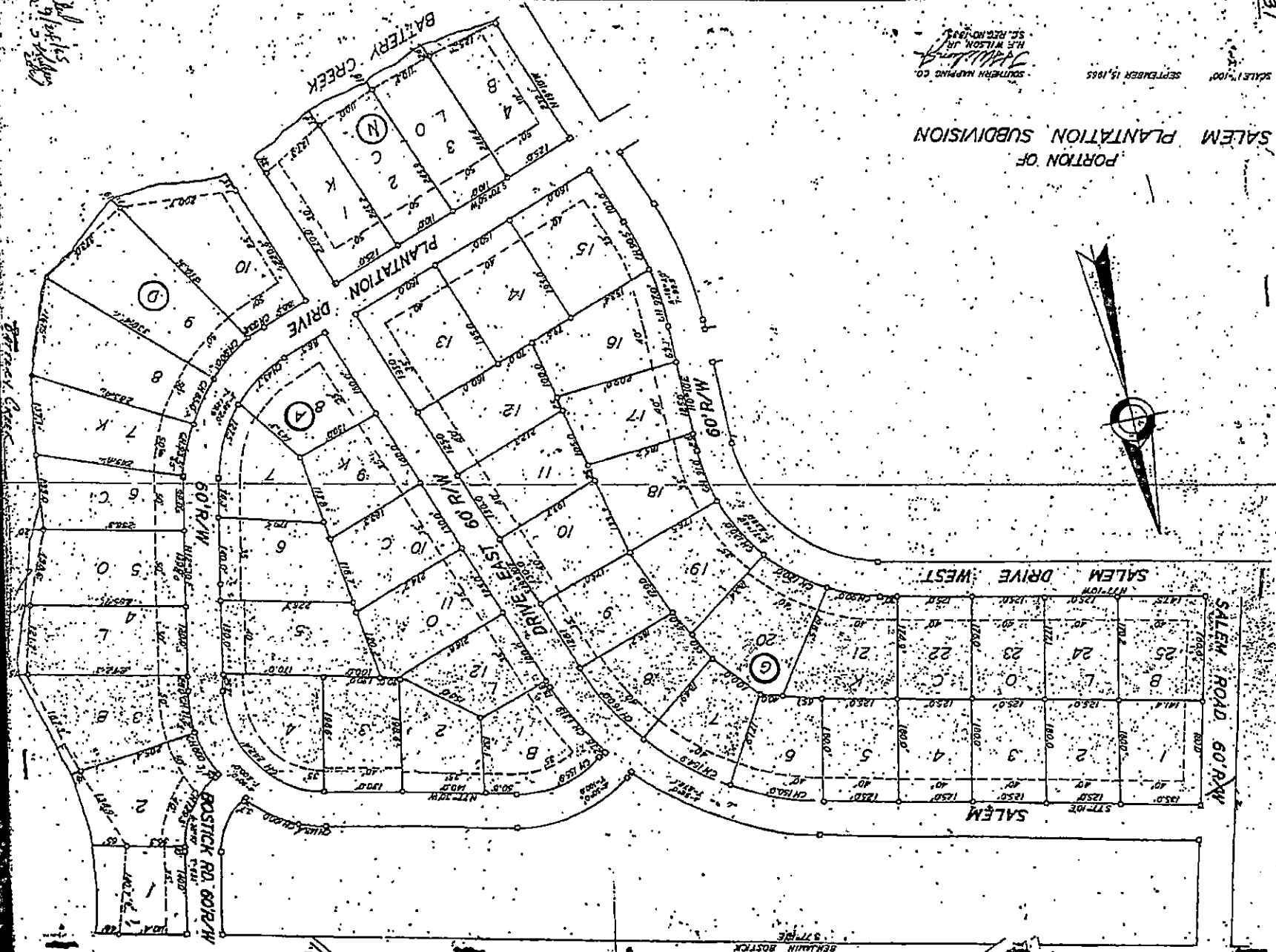
BOOK 15



LEGEND
— BUILDING LINE
— CONCRETE MARKERS
— IRON
— LOT 15
— BLOCK
— NOTE

SCALE 1"=100'
SEPTEMBER 15, 1965
SOUTHERN MAPING CO.
H.E. WILSON, JR.
S.F. REC. NO. 1993

SALEM PLANTATION SUBDIVISION
PORTION OF



LINE AS PER PLAT BY
DAVIS S. YOUMANS ADDITIONAL 10.0
/ BEING QUIT CLAIMED

LINE AS PER PLAT BY
DAVIS S. YOUMANS
DATED 02/04/2014
PB 138 / PG 61

15
SE II

LOT 1
PHASE I
25,596.76 Sq.Ft.
0.59 Ac

1 STORY WOOD
FRAMED SLAB ON GRADE
WELL HOUSE

50' RIVER OVERLAY
SETBACK LINE

APPELLANT TRIAL EXHIBIT 2

(2016 Plat from Zyad Khalil; Original plat to be filed with Court of Appeals).



;

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Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully submitted,



Christopher L. Murphy, Esquire
RESNICK & LOUIS, P.C.
146 Fairchild Street, Suite 130
Charleston, SC 29492
Phone: (843) 800-1187
Email: cmurphy@rlattorneys.com
Attorney for Appellant

May 28, 2020

RECEIVED
JUN 19 2020
SC Court of Appeals