

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas, Ninth Judicial Circuit
Hon. Bentley D. Price, Circuit Court Judge

Appellate Case No. 2020-001030

Maybank 2754, LLC, ...Appellant,

v.

Eugene Zurlo, Individually and as Co-Trustee of the Eugene J. Zurlo
Living Trust Dated December 11, 1997; 1776, LLC; Beach Fenwick, LLC;
The Beach Company; Seamon, Whiteside & Associates, Inc.; Penny
Creek Associates, LLC; John Doe and Mary Roe Respondents.

RECORD ON APPEAL
VOLUME III

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICAL CIRCUIT
CASE NO: 2020-CP-10-00209

MAYBANK 2754, LLC,

Plaintiff,

v.

**EUGENE J. ZURLO, Individually and as
Co-Trustee of the Eugene J. Zurlo Living
Trust Dated December 11, 1997; 1776,
LLC; BEACH FENWICK, LLC; THE
BEACH COMPANY; SEAMON,
WHITESIDE & ASSOCIATES, INC.;
PENNY CREEK ASSOCIATES, LLC;
JOHN DOE AND MARY ROE,**

Defendants.

Case No. 2020-LP-10-0022

**MOTION FOR SUMMARY JUDGMENT
ON BEHALF OF BEACH FENWICK,
LLC AND THE BEACH COMPANY
[SIC]**

Beach Fenwick, LLC (“Beach Fenwick”) and The Beach Company [sic] (“Beach Company”) (sometimes collectively referred to as the “Beach Entities”), by and through their undersigned counsel, will move before the presiding judge of the Court of Common Pleas for Charleston County, not sooner than 10 days from the date of this Motion, or at the Court’s convenience, for an Order, pursuant to Rule 56, South Carolina Rules of Civil Procedure (“SCRCP”) granting summary judgment in this matter in favor of the Beach Entities. This Motion is based upon the following grounds and will be supported by the pleadings in this matter, answers to interrogatories, responses to requests for the

production of documents, admissions,¹ whether written or by sworn testimony, memoranda and other matters on file with this Court.

The Beach Entities are entitled to summary judgment, as Plaintiff has no valid property interest in, to or across property owned by Beach Fenwick, as:

- 1) The Resolution of the Sole Shareholder of Penny Creek Associates, LLC, dated October 7, 2013 ("Resolution"), upon which Plaintiff bases its claim for relief is not a properly executed resolution by the entity purporting to make such Resolution;
- 2) The alleged easement purportedly set forth in the Resolution does not and cannot create a valid interest in property;
 - a) The alleged easement lacks sufficient description to support any claim that it is appurtenant to Plaintiff's property; fails to provide a point of origin, point of termination, or establish its length or width, and fails to allow the identification of the property conveyed, but merely states "...the location and condition of which shall be mutually agreed upon at the completion of that certain roadway known as Pitch Fork Road ("Pitch Fork Road")";
 - b) The alleged easement constitutes an "agreement to agree" which establish a contract under South Carolina law;
 - c) The alleged easement does not reflect a meeting of the minds with respect to numerous essential and material terms including, without limitation, the location and boundaries of the purported easement. As such, the alleged easement cannot, as a matter of law, form the basis of a valid and enforceable real estate contract or interest under South Carolina law;
 - d) Plaintiff appears to claim an easement appurtenant; however, even if the language of the Resolution creates some property interest, which it does not, it is not sufficient to establish an easement appurtenant. Specifically, the language in the Resolution fails to establish that the purported easement inheres in the land of Plaintiff, that it is essentially necessary to the enjoyment of Plaintiff's land or that it passes with it;
 - e) If the language in the Resolution is sufficient to establish an easement, which it is not, the only remaining interest it could create

¹ Plaintiff has not yet responded to Interrogatories or Requests for Production propounded by the Beach Entities. Thus, the Beach Entities expressly reserve the right to rely upon information provided by Plaintiff in response to discovery.

is an easement in gross to Michel Laplante and other members of the Laplante family, which is not alienable or transferable. An easement in gross is an individual right and not transferable;

3. The purported easement claimed by Plaintiff was never written or executed by the actual property owner at the time of its alleged creation, nor was it ever recorded;
4. To the extent any easement exists, which it does not, such easement was foreclosed pursuant to that certain action initiated and completed in favor of Wells Fargo, in foreclosure of its mortgage upon the property upon which Plaintiff claims an easement. See, Case No.: 2014-CP-10-04946 filed with the Charleston County Clerk of Court;
5. In addition to the foregoing, the Beach Entities will also rely on all affirmative defenses set forth in their Answer to Plaintiff's Complaint as additional bases for this Motion;
6. Plaintiff acknowledges, by and through a separate action against its former counsel, that it does not have a valid property interest. See, Case No.: 2020-CP-10-02180.

s/ Cheryl D. Shoun

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Attorneys for Beach Fenwick, LLC and
The Beach Company [sic]

August 18, 2020

Charleston, SC

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

Plaintiff,

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; ET. AL.;

Defendants,

/

**PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE OF RECORDED DOCUMENTS
AND CITY OF CHARLESTON ORDINANCES**

Plaintiff, MAYBANK 2754, LLC, by and through the undersigned attorney, subject to the disposition of the pending appeal (Court of Appeals Case number 2020-001030), and while maintaining the pending appeal and also its objection to having any matter heard by the Master-in-Equity, hereby moves before the presiding judge of the Court of Common Pleas to take judicial notice pursuant to Rule 201, SCRE, of the following documents, and also gives notice of filing true and correct copies thereof:

1. Limited Warranty Deed, recorded on May 15, 2006, in Book F583, Page 757, in the office of the Charleston County, South Carolina, Register of Deeds. All subsequent recording references are in the official records of said office.
2. Development Agreement by and between the City of Charleston, and 1776, LLC, recorded on December 2, 2019, in Book 0843, Page 506.
3. Title to Real Estate (Deed to Beach Fenwick, LLC from 1776, LLC), recorded on December 12, 2019, in Book 0846, Page 268.
4. Partial Assignment and Assumption of Rights and Obligations Under Development Agreement, recorded on December 12, 2019, in Book 0846, Page 269.

5. A Plat of a Portion of TMS # 346-00-00-004, and -076 Owned by 1776, LLC,
recorded in Book L19, Page 0515.
6. City of Charleston Ordinance, Ratification Number 2019-102.
7. City of Charleston Ordinance, Ratification Number 2018-164

Respectfully submitted,

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510

s/ Jason M. Tarokh
JASON M. TAROKH
S. CAROLINA BAR # 72837

August 24, 2020

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

EXF 583PG757
LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, THAT JUANITA A. SWANN ("Grantor") in the State aforesaid, County aforesaid for/and in consideration of the sum of Five Hundred Eighty-Six Thousand Five Hundred and No/100ths Dollars (\$586,500 00) and other good and valuable consideration in hand paid at and before the sealing of these presents by MAYBANK 2754, LLC ("Grantee"), in the State aforesaid, County 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 Grantee, its successors and assigns, the following described property, to-wit

**SEE EXHIBIT "A" ATTACHED HERETO
AND INCORPORATED HEREIN BY REFERENCE**

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 Grantee, its successors and assigns forever

AND the Grantor hereby binds herself and her successors and assigns, executors and administrators, to warrant and forever defend, all and singular, the said Premises unto the said Grantee, its successor and assigns, against her and her heirs and assigns and all persons whomsoever lawfully claiming, or to claim the same or any part thereof, by or through Grantor, but not otherwise

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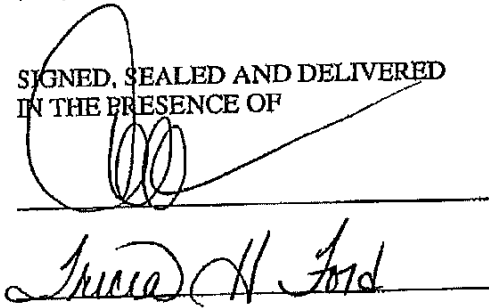
SIGNATURE PAGE FOLLOW.]

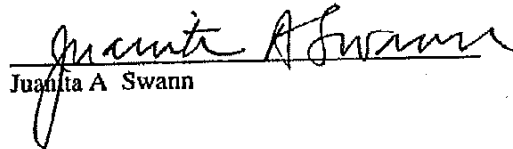
CHARLESTON\229228v1

DKF 583PG758

WITNESS my Hand and Seal this 9 day of May, in the year of our Lord two thousand and six and in the two hundred and twenty-ninth year of the Sovereignty and Independence of the United States of America

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

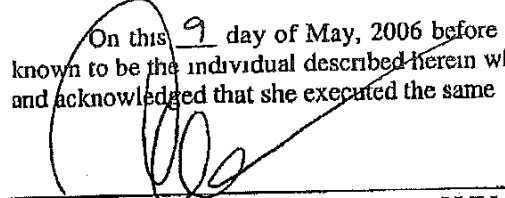

Tricia H. Ford


Juanita A. Swann

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

On this 9 day of May, 2006 before me personally appeared Juanita A. Swann, to me known to be the individual described herein who executed the foregoing Limited Warranty Deed and acknowledged that she executed the same


NOTARY-PUBLIC FOR SOUTH CAROLINA (Seal)

My Commission Expires



CHARLESTON229228v1

Plat T - 139

AS - 98

EXHIBIT "A"

BXF 583PG759

All that piece, parcel, lot or tract of land, together with the buildings and improvements thereon, which include a dental office which has been constructed thereon, situate, lying and being in the County of Charleston, State of South Carolina, and being shown as LOT "B-3" on a plat by Forrest G Calvert, entitled "Property in the name of FHP Realty about to be conveyed to David C Swann, DDS, located on Johns Island, Charleston County, South Carolina," having been recorded in Plat Book T at Page 139 in the RMC Office for Charleston County on the 1st day of February, 1981 Said property being approximately Eight Hundred and One (801') feet East of the intersection of River Road and Maybank Highway

SUBJECT TO a perpetual easement of ingress and egress over, under and across the front fifty (50') feet portion of the above described Lot B-3, the purpose of said ingress and egress being for the possible creation of a frontage or access road which the said FHP Realty Company, a Partnership, shall have no obligation to construct

Butting and bounding on the South by Maybank Highway One Hundred Twenty (120') feet, on the West by Tract B-1 now or formerly of FHP Realty Two Hundred (200') FEET, on the North by a portion Tract B-1 One Hundred (120') feet, the East by Tract B-2 now or formerly of FHP Realty Two Hundred (200') feet All of which will more fully and at large appear by reference to the aforementioned plat

SUBJECT FURTHER TO

- 1 All covenants, conditions, restrictions and easements of record, and
- 2 Unrecorded Lease Agreement originally between David C Swann and Johns Island Dentistry, P A, Charles F Wade, DMD and George K Camp, DDS dated December 19, 2003, as assigned to Greg Hancock, DMD by Assignment of Lease dated October 15, 2005

BEING the same property conveyed to Juanita A Swann by Deed of Distribution from The Estate of David C Swann a/k/a David Carroll Swann, Charleston County Probate Case No 2003-ES-10-1745, dated May 4, 2005 and recorded on October 27, 2005 in Book T-559, at Page 850 in RMC Office for Charleston County

TMS # 346-00-00-008

Grantee's Address

151 Treeduck Ct.
Kannah Island, SC 29455

CHARLESTON0229228v1

STATE OF SOUTH CAROLINA

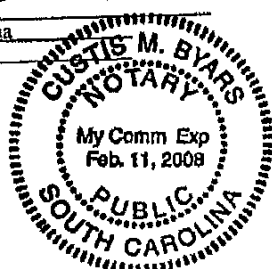
AFFIDAVIT

Date of Transfer of Title
Closing Date May 9, 2006COUNTY OF CHARLESTON

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says

BKF 583PG760

- 1 I have read the information on this Affidavit and I understand such information
- 2 The property being transferred BY Juanita A Swann TO Maybank 2754, LLC ON May 9, 2006
- 3 Check one of the following The DEED is
 (a) XX subject to the deed recording fee as a transfer for consideration paid or to be paid in money's worth
 (b) subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder,
 partner, or owner of the entity, or is a transfer to a trust or a distribution to a trust beneficiary
 (c) EXEMPT from the deed recording fee because (exemptions #) - (if exempt, please skip items 4-6,
 and go to item 7 of this affidavit)
- 4 Check one of the following if either item 3(a) or 3(b) above has been checked
 (a) XX The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$586,500 00
 (b) The fee is computed on the fair market value of the realty which is \$
 (c) The fee is computed on the fair market value of the realty as established for tax purposes which is \$
- 5 Check YES or NO XX to the following A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer If "YES", the amount of the outstanding balance of this lien or encumbrance is \$
- 6 The DEED Recording Fee is computed as follows
 (a) 586,500 00 the amount listed in item 4 above
 (b) 0 00 the amount in item 5 above (no amount place zero)
 (c) 586,500 00 subtract Line 6(b) from Line 6(a) and place the results
- 7 As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Grantor
- 8 Check if Property other than Real Property is being transferred on this Deed
 (A) Mobile Home
 (B) Other
- 9 DEED OF DISTRIBUTION - ATTORNEY'S AFFIDAVIT Estate of deceased CASE NUMBER
 Personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in the State of South Carolina, that (s)he has prepared the Deed of Distribution for the Personal Rep in the Estate of deceased and that the grantee(s) therein are correct and conform to the estate file for the above named decedent
- 10 I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both

SWORN to before me this 9
day of May, 2006Notary Public for South Carolina
My Commission Expires

Juanita A Swann
 (Grantor, Grantee, or Legal Representative
 connected with this transaction)

Juanita A Swann
 Print or Type Name Here

BKF 583PG761

RECORDER'S PAGE

NOTE This page MUST remain with the original document



FILED	
May 15, 2006	
3 34 07 PM	
BKF 583PG757	
Charlie Lybrand, Register Charleston County, SC	

Filed By

Buist, Byars, Pearce & Taylor, LLC
130 Gardners Circle
Suite 138
Johns Island SC 29455

DESCRIPTION	AMOUNT
Recording Fee	\$ 10 00
State Fee	\$ 1,524 90
County Fee	\$ 645 15
Postage	

TOTAL	\$ 2,180 05

\$ Amount (in thousands)	586 5

DRAWER	A - bmm

AUDITOR STAMP HERE

RECEIVED FROM RMC

JUN 1 2006

PEGGY A MOSELEY
CHARLESTON COUNTY AUDITOR

PID VERIFIED BY ASSESSOR

REP

DATE

[Signature]
5/10/06

DO NOT STAMP BELOW THIS LINE



BP0843506

PGS:

131

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF CHARLESTON, SOUTH CAROLINA,
AND 1776, LLC**

This DEVELOPMENT AGREEMENT (together with the recitals and exhibits attached hereto, the "Agreement") is entered into effective as of the 27th day of November, 2019 (the "Effective Date"), by and between the City of Charleston, a political subdivision of the State of South Carolina (the "City") and 1776, LLC, a South Carolina limited liability company ("Owner"). The City and Owner are sometimes separately referred to in this Agreement as a "Party" or jointly referred to as the "Parties."

RECITALS

This Agreement is predicated upon the following:

A. The South Carolina Local Government Development Agreement Act, codified at sections 6-31-10 through 160 of the South Carolina Code, as it exists on the Effective Date of this Agreement (the "Act"), enables municipalities to enter into development agreements with persons and entities intending to use or develop real property under certain conditions set forth in the Act.

B. Pursuant to section 6-31-30 of the South Carolina Code the City Council of Charleston, South Carolina (the "City Council") enacted section 23-20 of the City Code (the "Ordinance"), which establishes the procedures and requirements for considering and entering into development agreements.

C. The Owner is the owner of legal title to the Real Property (as hereinafter defined) on the Effective Date.

D. The Owner has generously agreed to donate substantially all of the real property required to construct the Northern Pitchfork Road, which will assist the City in providing much needed traffic relief on Johns Island

E. On January 12, 2016, City Council adopted Ordinance Number 2016-005, zoning the Real Property to Planned Unit Development ("PUD") and adopting the Planned Unit Development Guidelines for the Village at Fenwick (the "Guidelines") as the development plan for the Real Property. A copy of this ordinance is attached hereto and incorporated herein by reference as Exhibit A.

F. On December 18, 2018, the City Council adopted Ordinance Number 2018-164, amending the PUD zoning applicable to the Real Property by adopting the Amended and Restated Planned Development Guidelines for the Village at Fenwick (the "Amended Guidelines") as the amended development plan for the Real Property, with the effectiveness of the Amended Guidelines to begin on January 13, 2019. A copy of this ordinance is attached hereto and incorporated herein by reference as Exhibit B.

G. Pursuant to the Act and Ordinance, the City's Planning Commission conducted a public hearing regarding its consideration of this Agreement on November 26, 2018, and the City Council conducted a public hearing regarding its consideration of this Agreement on December 4, 2018.

H. Pursuant to section 6-31-60(A)(7) of the South Carolina Code, on December 18, 2018, City Council adopted Ordinance Number 2018-169, determining that this Agreement is consistent with the Comprehensive Plan, the Act, the City Code, and the Land Development Regulations, and approving of this Agreement. A copy of Ordinance Number 2018-169 is attached hereto and incorporated herein by reference as Exhibit C.

NOW THEREFORE, in consideration of the premises of this Agreement and the mutual benefits to the parties, the Parties agree as follows:

1. The Real Property. The Real Property subject to this Agreement (the "Real Property") is identified in Exhibit D, attached hereto and incorporated by herein reference. The Real Property contains at least twenty-five (25) acres of highland.

2. Definitions. In this Agreement, unless the word or phrase is non-capitalized:

(a) "Act" means the South Carolina Local Government Development Agreement Act, codified at sections 6-31-10 through -160 of the South Carolina Code, as it exists on the Effective Date of this Agreement.

(b) "Agreement" means this Development Agreement, including the recitals and exhibits attached hereto.

(c) "City" means the City of Charleston, South Carolina.

(d) "City Code" means the Code of the City of Charleston, South Carolina.

(e) "City Council" means the City Council of Charleston, South Carolina (the "City Council")

(f) "Comprehensive Plan" means the Charleston Century V Plan, Ordinance No. 2000-179, as amended through the Effective Date, adopted pursuant to section 6-29-510 through 540 of the South Carolina Code, and the official map adopted pursuant to section 6-7-1210 through 1280 of the South Carolina Code, a copy of which is on file in the Planning Department.

(g) "Current Regulations" means the Comprehensive Plan and Land Development Regulations, as amended through December 4, 2018, all of which are on file in the Planning Department, except that the Guidelines shall apply through January 12, 2019, and the Amended Guidelines shall apply thereafter.

(h) "Development" means the planning for or carrying out of a building activity or mining operation, the making of a material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels, and is intended by the Parties to include all uses of, activities upon or changes to the Real Property as are authorized by the Current Regulations and this Agreement. "Development," as designated in a law or development permit, includes the planning for and all other activity customarily associated with Development unless otherwise specified. When appropriate to the context, "Development" refers to the planning for or the act of developing or to the result of Development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not Development. Reference to particular operations is not intended to limit the generality of this item.

(i) "Development Parcel" means any tract of land, whether platted or not, on which Development may occur, including but not limited to Lots, but excluding street rights-of-way.

(j) "Land Development Regulations" means ordinances and regulations enacted by the City for the regulation of any aspect of Development and includes zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the Development or use of property, including storm water and drainage, but specifically excluding road construction specifications.

(k) "Lot" means a Development Parcel identified in an approved subdivision plat recorded in the ROD.

(l) "Ordinance" means section 23-20 of the City Code, which establishes the procedures and requirements for considering and entering into development agreements.

(m) "Parties" means the Owner and City.

(n) "Planning Department" means the City's Department of Planning, Preservation and Sustainability, established under sections 23-16 through 23-19 of the City Code.

(o) "Property Owner" or "Owner" means 1776, LLC, which is the sole legal and equitable owner of the Real Property on the Effective Date.

(p) "Real Property" is the real property referred to in Paragraph 1 of this Agreement and includes any improvements or structures customarily regarded as part of real property.

(q) "ROD" means the Office of the Register of Deeds for Charleston County, South Carolina.

3. Parties. The Parties are the Owner and the City

4. Relationship of the Parties. This Agreement creates a contractual relationship between the Parties. This Agreement is not intended to create, and does not create, the relationship of master/servant, principal/agent, independent contractor/employer, partnership, joint venture, or any other relationship where one Party may be held responsible for acts of the other Party. Further, this Agreement is not intended to create, nor does it create, a relationship whereby the conduct of the Owner constitutes "state action" for any purposes.

5. Intent of the Parties. The Parties agree that the burdens of this Agreement bind, and the benefits of this Agreement shall inure to, each of them and to their successors and/or assigns in title. The City and the Owner are entering into this Agreement in order to secure benefits and burdens referenced in the Act.

6. Consistency Determination. This Agreement is consistent with the City's Comprehensive Plan and Land Development Regulations. Whenever express or implied substantive provisions of this Agreement are inconsistent with the provisions of the Guidelines (or Amended Guidelines, when applicable), the standards set forth in the Guidelines (or Amended Guidelines, when applicable) and the standards set forth in this Agreement shall, to the extent possible, be considered *in pari materia* to give effect to both the provisions of the Guidelines (or Amended Guidelines, when applicable) and this Agreement; provided, however, that in the event of a conflict, and subject to the provisions of section 6-31-80 of the South Carolina Code, the standards set forth in this Agreement shall govern.

7. Legislative Act. Any change in the standards established by this Agreement require the approval of City Council, subject to compliance with applicable statutory procedures and consistent with Paragraph 8 of this Agreement. This Agreement constitutes a legislative act of City Council. This Agreement shall not be construed to create a debt of the City as referenced in section 6-31-145 of the South Carolina Code, or otherwise.

8. Applicable Land Development Regulations.

(a) Applicable Laws and Land Development Regulations. Except as otherwise provided by this Agreement or by the Act, the laws applicable to the Development of the Real Property are the Current Regulations. Notwithstanding the foregoing, between the Effective Date and January 12, 2019, the Guidelines, as set forth in Exhibit A, shall constitute the development plan applicable to the Real Property. Beginning on January 13, 2019, the Amended Guidelines, as set forth in Exhibit B, shall constitute the development plan applicable to the Real Property. The uses permitted on the Real Property, including population densities and building intensities and heights, are those consistent with the Guidelines, and, beginning on January 13, 2019, the Amended Guidelines.

(b) Subsequent Regulations. The City may enact subsequent Land Development Regulations ("Subsequent Regulations") and apply them to the Real Property pursuant to the provisions of the Act. Notwithstanding the above, the City shall not apply Subsequent Regulations to the Real Property for the term of the Agreement unless, in accordance with the provisions of section 6-31-80(B) of the South Carolina Code, the City

has held a public hearing and has determined: (1) the Subsequent Regulations are not in conflict with the Agreement and do not prevent the Development set forth in the Agreement; or (2) the Subsequent Regulations are essential to the public health, safety, or welfare and the Subsequent Regulations expressly state that they apply to property that is subject to a development agreement; or (3) the Subsequent Regulations are specifically anticipated and provided for in this Agreement; or (4) the City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement, which changes, if not addressed by the City, would pose a serious threat to the public health, safety, or welfare; or (5) this Agreement is based on substantially and materially inaccurate information supplied by the Owner. In addition, the Owner has the sole discretionary right from time to time to consent in writing to Land Development Regulations adopted by the City after the Effective Date not otherwise enforceable under this Agreement on the Real Property, which written approval shall not constitute or require an amendment to this Agreement. The Owner's consent shall be memorialized in a written acknowledgment filed with the Planning Department in a form which is recordable in the ROD. The Planning Department may record such written acknowledgment with the ROD.

(c) Vested Rights. Subject to the provisions of Paragraphs 8(a) and 8(b) of this Agreement, all rights and prerogatives accorded the Owner by this Agreement shall immediately constitute vested rights for the use and Development of the Real Property.

(d) No Abrogation. This Paragraph 8 shall not be interpreted to abrogate any rights protected under section 6-31-140 of the South Carolina Code or any rights that may have vested pursuant to common law or otherwise in the absence of this Agreement.

9. Applicability of Other Laws.

(a) Standard Codes. Pursuant to section 6-31-160 of the South Carolina Code, notwithstanding any provision of this Agreement which may be construed to the contrary, the Owner shall comply with any building, housing, electrical, mechanical, plumbing, gas and other standard codes subsequently adopted by the City or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code, in effect at the time of applying for a permit. This Agreement shall not be construed to supersede or contravene the requirements of any building, housing, electrical, mechanical, plumbing, gas or other standard code subsequently adopted by the City or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code.

(b) Stormwater/Street Regulations. Notwithstanding any provision of this Agreement which may be construed to the contrary, the Owner shall comply with any stormwater, drainage or related regulations and any City road or street regulations in effect at the time of applying for a permit. Notwithstanding the foregoing, to facilitate the visions and objectives of the Amended Guidelines, to preserve the natural characteristics of historic Fenwick Hall and its surrounds, and to protect healthy grand live oaks, consideration should be given to preserving the existing topography of the Real Property and Development Parcels within the PUD to the extent practicable by utilizing engineered drainage systems where possible to minimize the use of fill for drainage purposes.

(c) Governmental Powers. Notwithstanding any provision of this Agreement which may construed to the contrary, the provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend in any way the rights, duties and privileges of the City to exercise governmental powers and pass laws not applicable to Development of the Real Property including, but not limited to, the power of eminent domain and the power to levy and collect taxes.

(d) Suppliers. Pursuant to section 6-31-140(A) of the South Carolina Code, notwithstanding any provision of this Agreement which may construed to the contrary, this Agreement is not intended nor may this Agreement be construed in any way to alter or amend in any way the rights, duties, and privileges of suppliers of electricity or natural gas or of municipalities with reference to the provision of electricity or gas service, including, but not limited to, the generation, transmission, distribution, or provision of electricity at wholesale, retail or in any other capacity.

10. Local development permits and other permits needed. The Parties anticipate that the following local development permits and other regulatory permits will be needed to undertake development of the Real Property

Zoning permits, plat approvals (preliminary, conditional or final), road and drainage construction plan approvals, building permits, certificates of occupancy, water and/or sewer development contracts, and utility construction and operating permits, as well as permits from the South Carolina Department of Health and Environmental Control, South Carolina Department of Transportation, and the US Environmental Protection Agency.

The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Owner of the necessity of complying with all laws governing permit requirements, conditions, terms, or restrictions.

11. Facilities, Services and Public Uses.

(a) Generally. At this time, required facilities and services for the current uses of the Real Property are in place. The City does *not* provide water and sewer services. Subject to compliance with applicable Land Development Regulations, the provisions of this Agreement, and prior approval of construction plans by the City or other applicable governmental entity, the Owner may undertake Development of the Real Property as authorized by the Current Regulations and the Guidelines (or the Amended Guidelines, when applicable), but shall be responsible for providing adequate infrastructure facilities and services necessary to support its Development at the time the Development is undertaken, to include without limitation roads, water and sewer, electricity, and drainage. Ownership and maintenance of road and drainage facilities may, at the option of the Owner, be tendered to the City and will be accepted by the City if at the time of tender the roads and drainage facilities are constructed in accordance with then applicable City ordinances, rules, regulations or specifications, are in good condition, and are not subject to any

monetary or other lien. Nothing herein shall be construed to excuse compliance with standards as may be imposed by federal, state or county laws, rules or regulations.

(b) Northern Pitchfork Road. Pursuant to section 6-29-60(A)(5) of the South Carolina Code, the Parties recognize that, in consideration of this Agreement, Owner agrees to deed, or has deeded, fee simple title to the portion of the "Northern Pitchfork Road" and supporting facilities, including but not limited to drainage facilities, lying on the Owner's real property to the City, according to the plans for such road and related facilities approved by the City of Charleston and/or Charleston County as of the Effective Date. The Owner's contribution of this land shall be recognized by the City in considering any necessary requirements under the Land Development Regulations for addressing future traffic impacts caused by the Development of the Real Property.

12. Schedule for Development.

(a) Commencement Date: The Development of the Real Property will be deemed to commence on the Effective Date.

(b) Schedule of Completion Dates: The Owner estimates, in good faith, that during the years after the Effective Date, the following Development, including total number of dwelling units and population, may be complete:

<u>YEAR</u>	<u>UNITS</u>	<u>POPULATION</u>
1	0	0
2	0 – 125	0 – 275
3	125 – 250	275 – 550
4	250 – 375	550 – 825
5	375 – 500	825 – 1,100

(c) Completion Date: The Owner estimates that the Development should be substantially completed, i.e. essentially all structures necessarily erected and/or necessary infrastructure in place to serve the intended uses, within ten (10) years of the Effective Date.

(d) Modification of Commencement or Completion Date: The City recognized that the Development on the Real Property will include a variety of uses and that demand, cost, environmental factors, and other pertinent financial and feasibility considerations fluctuate. Accordingly, the commencement date, interim completion dates, and completion date set forth in this Agreement are good faith estimates only. The timing of the actual Development of the Real Property will likely differ because of the multiple variables influencing it. The Parties agree that the commencement date, interim completion dates, and completion date are therefore subject to modification and that the Owner may provide to the City updated schedules which shall not constitute an amendment of this Agreement triggering the process for approval of amendments set forth in this Agreement.

(e) Failure to Meet Commencement of Completion Dates: The Owner's failure to meet the commencement date, an interim completion date, or the completion date shall not, in and of itself, constitute a material breach of this Agreement pursuant to section 6-31-90 of the South Carolina Code, but must be judged based on the totality of the circumstances and the flexibility anticipated under the Act and this Agreement.

13. Term of the Agreement. The term of this Agreement shall be five (5) years, commencing on the Effective Date. However, the Parties are not precluded from extending the term of this Agreement by mutual consent. The Parties agree to negotiate in good faith and utilize best efforts to extend this Agreement.

14. Amending or Canceling the Agreement. Subject to the provisions of section 6-31-100 of the South Carolina Code, this Agreement and the Amended Guidelines may be amended or canceled in whole or in part only by mutual written consent of the Parties or their successors in interest and, in the case of the Owner, its successors in legal title. Any amendment to this Agreement shall comply with the provisions of section 6-31-100. If an amendment to this Agreement or the Amended Guidelines affects less than all the persons and entities comprising the Owner, then only the City and those affected persons or entities who are Owners need to sign such written amendment for it to be effective. Pursuant to section 6-31-60(B) of the South Carolina Code, a major modification of this Agreement shall occur only after public notice and a public hearing by the City.

15. Modifying or Suspending the Agreement. Pursuant to section 6-31-130 of the South Carolina Code, in the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, the pertinent provisions of this Agreement shall be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

16. Periodic Review.

(a) Timing. Pursuant to sections 6-31-40 and 6-31-90(a) of the South Carolina Code, the City's zoning administrator or the zoning administrator's designee shall review the Development of the Real Property and this Agreement at least once every twelve (12) months, at which time the Owner or its successors in title and/or assigns shall demonstrate good faith compliance with the terms of this Agreement.

(b) Notice of Material Breach. If, as a result of a periodic review or at any other time, the City finds and determines that the Owner or its successors in title and/or assigns has committed a material breach of the terms or conditions of this Agreement, the City shall serve notice in writing upon the Owner or its successors in title and/or assigns setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Owner or its successors in title and/or assigns a reasonable time in which to cure the material breach.

(c) Failure to Cure. If the Owner or its successors in title and/or assigns fails to cure any material breach within the time given, then the City unilaterally may terminate or

modify this Agreement; provided that the City has first given the Owner or its successors in title and/or assigns the opportunity: (1) to rebut the City's finding and determination; or (2) to consent to amend this Agreement to meet the concerns of the City with respect to the finding and determination.

17. Severability. Subject to section 6-31-150 of the South Carolina Code, if any word, phrase, sentence, paragraph or provision of this Agreement shall be finally adjudicated to be invalid, void, or illegal, it shall be deleted and in no way affect, impair, or invalidate any other provision hereof.

18. Merger. This Agreement, coupled with its exhibits which are incorporated herein by reference, constitutes the final and complete expression of the Parties' intentions. In return for the respective rights, benefits, and burdens undertaken by the Parties, the Owner or its successors in title and/or assigns shall be, and is hereby, relieved of obligations imposed by future Land Development Regulations, except those which may be specifically provided for herein.

19. Cooperation. The Parties hereto agree to cooperate with each other to effectuate the provisions of this Agreement and to act reasonably and expeditiously in all performances required under the Agreement. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action.

20. Conflicts of Law. This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

21. Remedies. Each Party recognizes that the other Party would suffer inseparable harm from a material breach of this Agreement and that no adequate remedy at law exists to enforce this Agreement. Consequently, the Parties agree that any non-breaching Party who seeks enforcement of the Agreement is entitled to the remedies of injunction and specific performance but not to any other legal or equitable remedies including, but not limited to, damages; provided, however, the Owner shall not forfeit its right to just compensation for any violation by the City of Owner's rights. The City will look solely to the Owner as to any rights it may have against the Owner under this Agreement, and hereby waives any right to assert claims against limited partners or members of the Owner, and further agrees that no limited partner, member or agent of the Owner has any personal liability under this Agreement. Likewise, the Owner agrees to look solely to the City's assets as to any rights it may have against the City under this Agreement, and hereby waives any right to assert claims for personal liability against individuals acting on behalf of the City, its City Council members, agencies, boards, or commissions. Nothing in this Agreement shall be construed as requiring or authorizing the creation or incurrence of general obligation debt on the part of the City.

22. Recording. The Owner shall record this Agreement with the ROD within fourteen (14) days of the Effective Date; provided, however, the Owner's failure to record this Agreement within such time shall not affect the validity of this Agreement.

23. Third Parties. Notwithstanding any provision of this Agreement to the contrary, this Agreement shall not be binding and shall have no force or effect as to persons or entities who are not Parties or successors-in-title to Parties to this Agreement.

24. Successors and Assigns.

(a) Binding Effect. This Agreement shall be binding on the successors and assigns of the Owner in the ownership or Development of any portion of the Real Property. This Agreement shall also be binding on the City and all future City Councils for the term of this Agreement. A purchaser, lessee or other successor in interest of any portion of the Real Property shall be solely responsible for performance of the Owner's obligations hereunder as to the portion or portions of the Real Property so transferred. Assignees of some or all of the Real Property shall be required to execute a written acknowledgement accepting and agreeing to the Owner's obligations in this Agreement, said document to be in recordable form and provided to the City at the time of the recording of any deed transferring some or all of the Real Property. Following delivery of such documents, the Owner shall be released of any further liability or obligation with respect to such part of the Real Property conveyed. For purposes hereof, a lease with a term, including extensions, that exceeds a term of twenty (20) years, shall be subject to the provisions of this Paragraph.

(b) Indemnification. This Paragraph shall not be construed to prevent Owner from obtaining indemnification of liability to the City from third parties. Further, the Owner or its successors-in-title shall not be required to notify the City or obtain the City's consent with regard to the sale of Lots in single family residential subdivisions or Lots in commercial areas which have been platted and approved in accordance with the terms of this Agreement. Owner shall be released from obligations as to individual Lots in single-family subdivisions and individual building pad sites in commercial areas.

(c) Transfer of Real Property. Owner shall be entitled to transfer any portion or all of the Real Property to a purchaser or purchasers, subject to the following exceptions:

1) Notice of Property Transfer. If the Owner intends to transfer all or a portion of the Real Property to a purchaser who, by virtue of a contractual or other restriction is precluded of availing himself of any use of the Real Property allowed by the Current Regulations, Owner shall provide the City with thirty (30) days prior, written notice, with such notice to include a copy of the contractual or other restrictions.

2) Mortgage Lenders. Notwithstanding anything to the contrary contained in this Agreement, the exceptions to transfer contained in Paragraph 23(c)(1) shall not apply: (i) to any mortgage lender either as the result of foreclosure of any mortgage secured by any portion of the Real Property or any other transfer in lieu of foreclosure; (ii) to any third party purchaser at such a foreclosure; or (iii) to any third party purchaser of such mortgage lender's interest subsequent to the mortgage lender's acquiring ownership of any portion of the Real Property,

Furthermore, nothing contained herein shall prevent, hinder or delay any transfer or any portion of the Real Property to any such mortgage lender or subsequent purchaser. Except as set forth herein, any such mortgage lender or subsequent purchaser shall be bound by and shall receive the benefits from this Agreement as the successor in title to the Owner.

(d) Release of Owner. In the event of conveyance of all or a portion of the Real Property and compliance with the conditions set forth therein, the Owner shall be released from any further obligations with respect to this Agreement as to the portion of Real Property so transferred, and the transferee shall be substituted as the Owner under this Agreement as to the portion of the Real Property so transferred and the transferee shall be subject to this Agreement and its benefits and burdens.

(e) Estoppel Certificate.

i. Request. Upon request in writing from an assignee or the Owner to the City sent by certified or registered mail or publicly licensed message carrier, return receipt requested, the City will provide a certificate in recordable form that, solely with regard to the portion of the Real Property described in the request, there are no violations or breaches of this Agreement, except as otherwise described in the certificate.

ii. Response. The City will respond to such a request within thirty (30) days of the receipt of the request, and may employ such professional consultants, municipal, City and state agencies and staff as may be necessary to assure the truth and completeness of the statements in the certificate. The reasonable costs and disbursements of private consultants will be paid by the person making the request.

iii. Effect. The certificate issued by the City will be binding on the City in accordance with the facts and statements contained therein as of its date and may be relied upon by all persons having notice thereof. No claim or action to enforce compliance with this Agreement may be brought against the Owner or its assignees properly holding rights hereunder, alleging any violation of the terms and covenants affecting such portion of the Real Property except as otherwise described in the Certificate.

iv. Failure to Respond. If the City does not respond to such request within thirty (30) days of its receipt, the portion of the Real Property described in the request will be deemed in compliance with all of the covenants and terms of this Agreement, a certificate of such conclusion may be recorded by the Owner, including a copy of the request and the notice of receipt and it shall be binding on the City as of its date. Such notice shall have the same effect as a Certificate issued by the City under this Section.

25. General Terms and Conditions.

(a) Construction of Agreement. This Agreement should be construed so as to effectuate the public purpose in the settlement of disputes, while protecting the public health, safety and welfare, including but not limited to ensuring the adequacy of facilities and compatibility between the Real Property developed under this Agreement and other properties which are not.

(b) Mutual Releases. At the time of, and subject to (i) the expiration of any applicable appeal period with respect to the approval of this Agreement without any appeal having been filed, or (ii) the final determination of any court upholding this Agreement, whichever occurs later, and the Parties' respective rights and obligations under this Agreement, Owner, on behalf of itself and Owner's partners, officers, directors, employees, agents, attorneys, consultants, hereby releases the City and the City's council members, officials, employees, agents, attorneys and consultants, and the City, on behalf of itself and the City's council members, officials, employees, agents, attorneys and consultants, hereby releases Owner and Owner's partners, officers, directors, employees, agents, attorneys and consultants, from and against any and all claims, demands, liabilities, costs, expenses of whatever nature, whether known or unknown, and whether liquidated or contingent, arising on or before the date of this Agreement in connection with the Real Property or the application, processing or approval of the Agreement; provided, however, that each Party shall not be released from its continuing obligation to comply with this Agreement, including the Current Regulations.

(c) No Waiver. Failure of a Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the City Council taken with the same formality as the vote approving this Agreement, no officer, official or agent of the City has the power to amend, modify or alter this Agreement or waive any of its conditions as to bind the City by making any promise or representation contained herein. Any amendments are subject to Paragraph 14 of this Agreement.

(d) Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except as otherwise set forth in this Agreement.

(e) Attorneys' Fees. Should any Party hereto employ an attorney for the purpose of enforcing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief, or other litigation, including appeal or rehearings, the prevailing Party shall be entitled to receive from the other Party thereto reimbursement for all reasonable attorneys' fees and all costs and expenses. Should any judgment or final order be issued in that proceeding, said reimbursement shall be specified herein.

(f) Property Taxes and Fees. Nothing contained herein shall preclude the City from levying and collecting ad valorem property taxes or any fees that are imposed in like

manner upon other similarly situated properties within the City; provided, however, the City agrees that Owner shall not be subject to any impact fees in effect as of the date of this Agreement, and the City further agrees that any new impact fees adopted by the City during the term of this Agreement shall not apply to the Property.

(g) Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

City of Charleston
Attention: Mayor
Post Office Box 304
Charleston, South Carolina 29402

With copies to:

City of Charleston
Attention: Zoning Administrator
2 George Street
Charleston, South Carolina 29401

City of Charleston
Attention: Legal Department
50 Broad Street
Charleston, South Carolina 29402

Owner:

1776, LLC
36 Prioleau Street, Unit N
Charleston, South Carolina 29401

With copy to:

Hellman Yates & Tisdale, PA
Attention: Brian A. Hellman, Esq.
105 Broad Street, Third Floor
Charleston, SC 29401

(h) Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other Party within seven (7) days of receipt of said facsimile copy.

[Remainder of page left blank, intentionally. Signature pages to follow.]

IN WITNESS WHEREOF, this development agreement between the City of Charleston and 1776, LLC, has been executed by the City on the day and year first above written.

Witnesseth:

CITY OF CHARLESTON

By:

John J. Tecklenburg, Mayor

Michelle Lee

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ACKNOWLEDGEMENT

I, Daniel S. McQueeney, Jr., Notary of the Public of the State of South Carolina, do hereby certify that the City of Charleston, by John J. Tecklenburg, its Mayor, personally appeared before me this 27th day of November, 2019, and acknowledged the execution of the foregoing instrument.

Print Name: Daniel S. McQueeney, Jr.
Notary Public for South Carolina
My Commission Expires: 2/4/2021

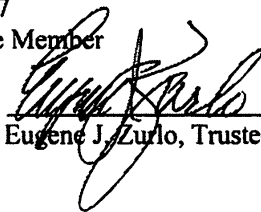
IN WITNESS WHEREOF, this development agreement between the City of Charleston and 1776, LLC, has been executed by 1776, LLC, a South Carolina limited liability company, on the day and year first above written.

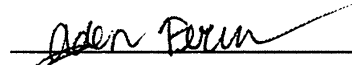
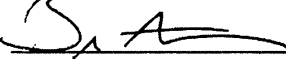
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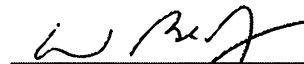
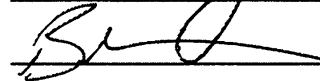
1776, LLC a South Carolina limited liability company

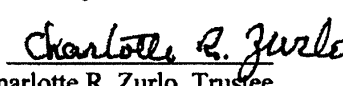
By: The Eugene J. Zurlo Living Trust dated December 11, 1997

Its: Sole Member

By: 
Eugene J. Zurlo, Trustee

By: 
Charlotte R. Zurlo, Trustee

[Remainder of 1776, LLC signature page left blank, intentionally.
Acknowledgments to follow].

STATE OF SOUTH CAROLINA

ACKNOWLEDGEMENT

COUNTY OF CHARLESTON

I, Brian Apley, Notary of the Public of the State of South Carolina, do hereby certify that Eugene J. Zurlo, Trustee of The Eugene J. Zurlo Living Trust dated December 11, 1997, Sole Member of 1776. LLC, a South Carolina limited liability company, personally appeared before me this 22nd day of November, 2019, and acknowledged the execution of the foregoing instrument on behalf of said limited liability company.

Notary Public for South Carolina

My Commission Expires: 5/20/27

STATE OF SOUTH CAROLINA

ACKNOWLEDGEMENT

COUNTY OF CHARLESTON

I, Brian A. Heuser, Notary of the Public of the State of South Carolina, do hereby certify that Charlotte R. Zurlo, Trustee of The Eugene J. Zurlo Living Trust dated December 11, 1997, Sole Member of 1776, LLC, a South Carolina limited liability company, personally appeared before me this 27th day of November, 2019, and acknowledged the execution of the foregoing instrument on behalf of said limited liability company.

Notary Public for South Carolina

My Commission Expires: 5/20/24

EXHIBIT A

[ORDINANCE NO. 2016-005 (PUD GUIDELINES)]



Ratification
Number 2016-005

AN ORDINANCE

TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT PROPERTY LOCATED ON RIVER ROAD AT MAYBANK HIGHWAY (JOHNS ISLAND) (58.88 ACRES) (TMS #346-00-00-004, 008, 076, 258, 259, 260 & 301) (COUNCIL DISTRICT 5), BE REZONED FROM DIVERSE RESIDENTIAL (DR-9), GENERAL BUSINESS (GB) AND GENERAL OFFICE (GO) CLASSIFICATIONS TO PLANNED UNIT DEVELOPMENT (PUD) CLASSIFICATION.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That the Zoning Ordinance of the City of Charleston be, and the same hereby is amended, by changing the zone map thereof so as to rezone the property described in Section 2 hereof by changing the zoning designation from Diverse Residential (DR-9), General Business (GB) and General Office (GO) classifications to Planned Unit Development (PUD) classification.

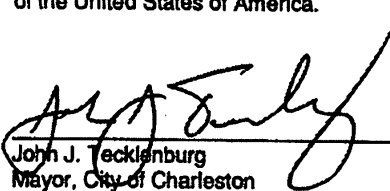
Section 2. The property to be rezoned is described as follows:

Property located on River Road at Maybank Highway (Johns Island) (58.88 acres) (TMS #346-00-00-004, 008, 076, 258, 259, 260 & 301)

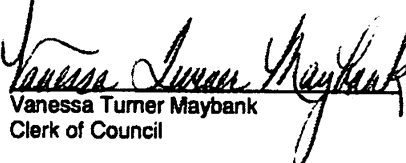
Section 3. This ordinance shall become effective upon ratification.

Ratified in City Council this 12th day of
September in the Year of Our Lord
2016, in the 240th Year of Independence
of the United States of America.

By:


John J. Tecklenburg
Mayor, City of Charleston

Attest:


Vanessa Turner Maybank
Clerk of Council

City of Charleston

Planning Commission
November 18, 2015

Rezoning 4

River Rd at Maybank Hwy (Johns Island)

TMS# 3460000004, 008, 076, 258, 259, 260 & 301

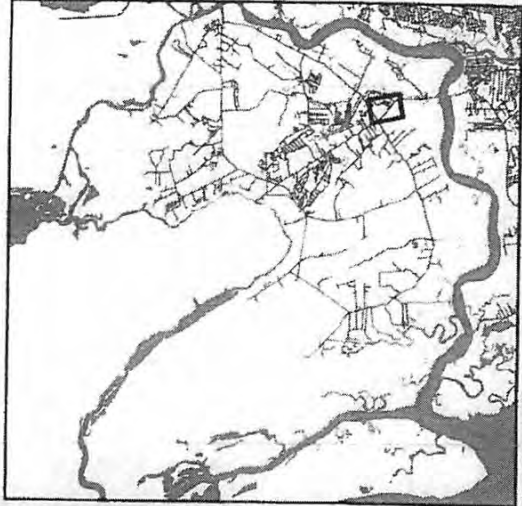
58.88 ac.

Request rezoning from Diverse Residential (DR-9),
General Business (GB) and General Office (GO)
to Planned Unit Development (PUD).

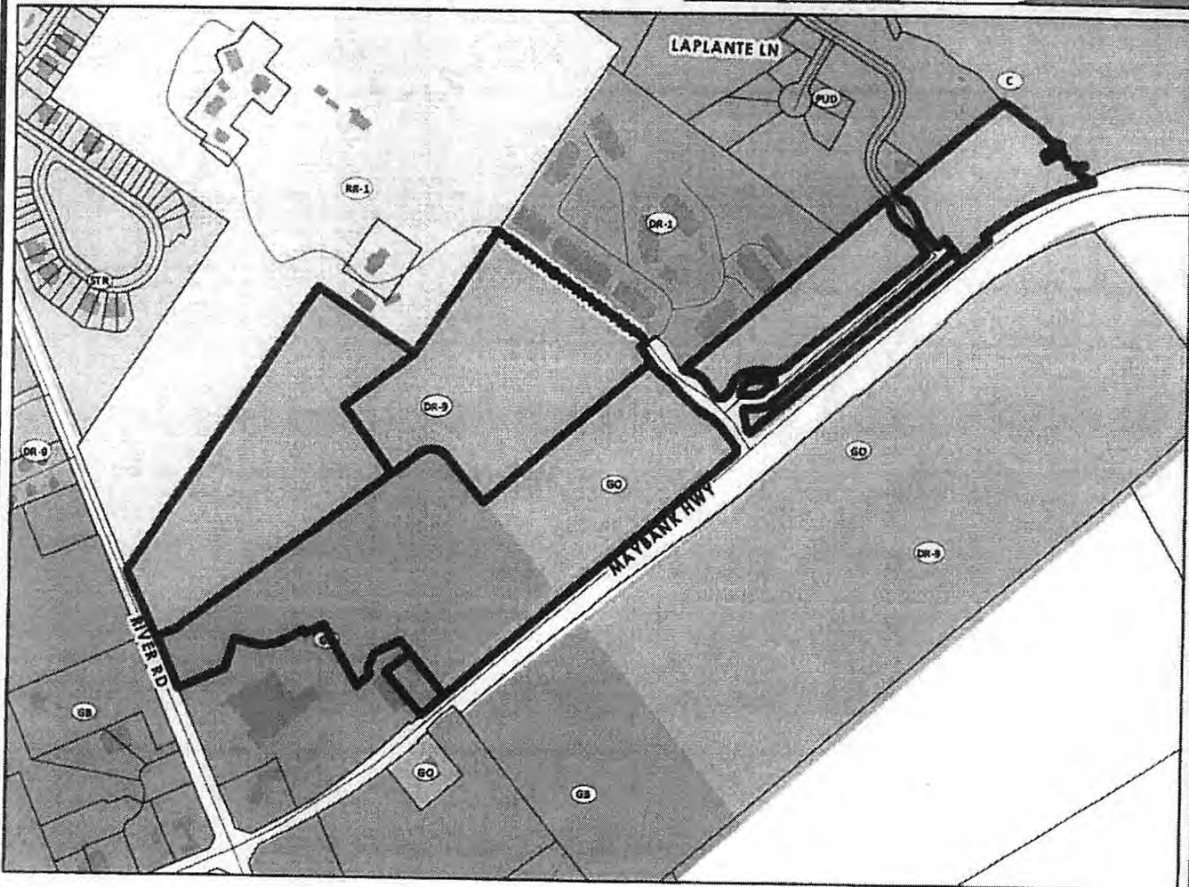
Owner: Multiple Owners

Applicant: Seamon, Whiteside & Assoc. Inc

Area



Location



Department of Planning, Preservation & Sustainability
www.charleston-sc.gov

2 George St, Charleston, SC 29401

843.724.3765



*Planned Development Guidelines
Village at Fenwick
December 7, 2015*

PLANNED UNIT DEVELOPMENT GUIDELINES

The Village at Fenwick

Charleston, South Carolina

ID# 150928-RiverRd-1

December 7, 2015



Applicant:

Mitch Laplante

Owners:

Penny Creek Associates, LLC

Fenwick Allee, LLC

2754 Maybank, LLC

Prepared By:

Seamon, Whiteside & Associates, Inc.

501 Wando Park Boulevard, Suite 200

Mt. Pleasant, SC 29464

(843) 884-1667

SW+ Project No. 6518

***Planned Development Guidelines
Village at Fenwick
December 7, 2015***

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**PLANNED UNIT DEVELOPMENT
MASTER PLAN REQUIREMENTS
CITY OF CHARLESTON**

RELATIONSHIP TO THE CITY OF CHARLESTON ZONING ORDINANCE

The Development Guidelines and Land Use Plan for the Village at Fenwick Planned Unit Development (PUD), attached hereto and made a part hereof, are part of the PUD conditional use Master Plan application submitted in accordance with the Zoning Ordinance of the City of Charleston, Article 2, Part 7 Sections 54-250, et seq. The Zoning Ordinance of the City of Charleston is incorporated herein by reference, except as amended herein.

No person shall erect or alter any building, structure, or sign on any tract of land or use any tract of land within the Village at Fenwick PUD except in conformance with these guidelines and regulations. Unless modified herein, definitions of terms used in the Village at Fenwick PUD Development Guidelines shall follow definitions listed in the Zoning Ordinance of the City of Charleston, as amended from time to time. Administration and enforcement of the adopted Village at Fenwick PUD Master Plan shall follow Article 9 of the Zoning Ordinance of the City of Charleston.

The Village at Fenwick PUD Master Plan was approved by the City of Charleston on _____, Ordinance Number _____.

***Planned Development Guidelines
Village at Fenwick
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I. Statement of Purpose, Intent, Objectives

This Planned Unit Development is intended to meet the criteria listed in Section 54-254 in the City of Charleston zoning code. The PUD allows flexibility in neighborhood design to create an urban node for Johns Island while providing open space, protecting the site's grand trees, and being sensitive to the context of Johns Island. This document is consistent with the City's adopted comprehensive plan, the Century V Plan, the Johns Island Community Plan, and the Johns Island Community Greenway Plan.

By creating additional open space including a linear park, that runs parallel to Maybank Highway, a leisure trail system, a dog park, and a Farmer's Market site, this development better achieves the goals of adopted plans or other zoning district regulations. A linear park alongside the conservation buffer area on Maybank Highway will incorporate a leisure trail, seating, ornamental plantings, and a historical design feature that will illustrate the history of Johns Island. A small dog park will be provided as an open space element, allowing people an area to relax outdoors with their pets. A leisure trail system will wind through the entire development, creating an emphasis on pedestrian connectivity, and downplaying the role of the automobile. This trail system will link into a proposed Farmers Market open air building that will be for public use, and allow local farmers to sell their produce to the Johns Island community.

This development is also consistent with the City's adopted master road plan. By committing to design the development around existing grand trees, allowing pervious road types, generating ample open space, and respecting the adjacent Fenwick Hall through buffering and architectural regulations, this PUD will protect and preserve natural and cultural resources better than standard zoning district regulations. The planned development aims to celebrate the natural characteristic of the Johns Island gateway while transitioning to the future "Four Corners" intersection at Maybank Highway and River Road.

Further, this planned development has been coded for compatibility with density and building height restrictions according to the City's vision for the location, as set forth by the Comprehensive Plan and Century V Plan. The planned development will be congruent with the density and maximum building height of the adjacent multistory apartments. To encourage a variety of roof lines through the PUD development, building heights shall be defined as number of stories. It is also compatible with the existing network of public streets and the proposed Pitchfork Road that is planned to go through the property. Additionally, this development is accommodated by existing and planned public facilities including roads, sewer, water, schools, parks, open space and recreational amenities. Coordination letters are included within this document. Finally, the POA will adequately provide for the continued maintenance of common areas, open space, and other public facilities not dedicated to the City of Charleston.

Upon City approval, these Planned Unit Development Guidelines shall apply to the entire 58.88 acres of this tract. Any zoning details not outlined in these guidelines will adhere to the current City of Charleston zoning guidelines and will default to the GB or DR-9 land use regulations, based on the parcels' zoning prior to this PUD. A Conceptual Land Use Plan and Conceptual Open Space Plan have been included within the appendices of this report.

This PUD is a zoning document only and does not include a Concept Plan component. Drainage, Utility and Fire Protection Plans meeting the City's requirements shall be provided with the future required Concept Plan submittal.

The Village at Fenwick PUD property includes a vehicular spur of the Pitchfork Traffic Plan set forth by the City of Charleston, with the goal of dispersing traffic, while creating walkable streets with on-street parking, to ultimately create a gathering place for Johns Island.

The vision of the Pitchfork Traffic Plan is to create a Johns Island inspired village center that is respectful of the grand live oaks and surrounding natural character of Johns Island. The goal of this PUD is to provide flexible zoning regulations in order to create a dense, walkable mixed-use gathering place along Maybank Highway and the Pitchfork spur that is sensitive to its surrounding landscape and history.

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II. City Land Use & Zoning Designations

A. Century V Plan Recommendations:

According to the City of Charleston's Century V Plan, this site's recommended future Land Use designations are Urban, Neighborhood Center, Conservation, and Suburban.

<u>Future Land Use</u>	<u>Acreage</u>	<u>Allowable Density*</u>	<u>Allowable Units</u>
Urban	9.52 AC upland	12 DU/AC	114
Neighborhood Center	35.51 AC upland	20 DU/AC	710
Conserved/Natural Area*	3.31 AC upland 6.23 AC wetland	0 DU/AC	0
Suburban	4.31 AC upland	8 DU/AC	34
TOTAL	52.65 AC upland 6.23 AC wetland	16.29 DU/AC	858

* Density calculated using upland acreage.

B. Current Base Zoning and Site Tabulation:

The Village at Fenwick PUD property, totaling 58.88 acres, is comprised of TMS numbered 346-00-00-004, TMS 346-00-00-076, TMS 346-00-00-260, 346-00-00-008, a portion of 346-00-00-258, a portion of 346-00-00-259, and TMS 346-00-00-301 as found on the tax maps included in the appendices of this report. The properties are zoned GB, GO, C, and DR-9 in the City of Charleston. The Village at Fenwick PUD property is surrounded by a mix of properties with zoning designations of RR-1, DR-1, GB, PUD and GO.

Existing TMS Acreage Chart:

<u>TMS #</u>	<u>Existing ACREAGE</u>	<u>Existing Zoning(s)</u>
346-00-00-004	12.64 AC	DR-9
346-00-00-076	22.93 AC	GB, GO, C
346-00-00-260	12.25 AC	DR-9
346-00-00-258*	4.82 AC	GO
346-00-00-259*	4.38 AC	GO, C
346-00-00-008	0.55 AC	GB
346-00-00-301	1.31 AC	C
TOTAL	58.88 AC	

* Portion of total parcel acreage

DR-9 - Diverse Residential; GB - General Business; GO - General Office; C - Conservation

**Planned Development Guidelines
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Existing Zoning Chart:

<u>Ex. Zoning</u>	<u>Total Acreage</u>	<u>Density</u>	<u>Dwelling Units</u>
DR-9	24.89 AC	9.0 units/AC	224 units
GB	14.61 AC	26.4 units/AC	385 units
GO	16.19 AC	--	--
C	3.19 AC	--	--
TOTAL	58.88 AC		609 units

III. PUD Land Uses and Development Regulations

A. Land Uses

The proposed development will contain residential, commercial, civic and open space land uses in a horizontal or vertical mixed use format. The PUD will categorize the intensity of development into two designations; Village at Fenwick Mixed Use Residential (VFMR) and Village at Fenwick Mixed Use Commercial (VFMC). In order to preserve the Maybank Highway natural corridor, the PUD will also consider Conservation (C) as part of the development regulation.

1. Site Tabulation:

<u>LAND USE</u>	<u>TOTAL</u>	<u>Projected WETLAND</u>	<u>Projected HIGH</u>	<u>Existing Pond</u>	<u>Maximum D.U.*</u>	<u>Maximum NET DENSITY</u>
VFMR**	27.30 Ac.	1.11 Ac.	26.19 Ac.		216	9.00 D.U./Upland Ac.
VFMC**	27.51 Ac.	5.12 Ac.	22.39 Ac.	0.55 Ac.	393	17.55 D.U./Upland Ac.
C**	4.07 Ac.	0.00 Ac.	4.07 Ac.		N/A	N/A
TOTAL	58.88 Ac.	6.23 Ac.	52.65 Ac.	0.55 Ac.	609	11.57 D.U./Upland Ac.

*Accessory dwelling units shall not count toward allowable density limit (see III, A, 2 for definition)

**See VII for Open Space Requirements

2. Village at Fenwick Mixed Use Residential (VFMR) designated area(s) will allow primarily residential and limited commercial and mixed use. The following uses shall be permitted:

1. Single-family detached dwelling (SFD)
2. Two-family dwellings
3. Single-family attached dwellings
4. Nursing homes
5. Accessory Dwelling Units (ADU). Accessory Dwelling Unit shall be defined as for a secondary house or apartment with its own kitchen, living area and separate entrance that shares the building lot of a larger, primary house. The ADU may be attached to an existing

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- house or garage, or it may be built as a stand-alone unit, but it usually uses the water and energy connections of the primary house and may be rented separately.
6. Detached accessory buildings for Office Space for Home Occupations
 7. Live Work Units
 8. Neighborhood commercial as defined in the City of Charleston CT zoning designation, except that commercial hours of operation shall be limited to 7 a.m. to 8 p.m.
 9. Gazebos, shelters, play equipment, and other site furnishings shall be allowed in open spaces falling outside of wetlands and buffer areas.
 10. Model homes, sales centers, and associated uses shall be allowed in all areas.
 11. An open air farmers market building
 12. Parks, trails, open space, etc.

3. **Village at Fenwick Mixed Use Commercial (VFMC)** designated area(s) will allow moderate intensity mixed use, residential, and commercial. The following uses shall be permitted:
 1. Uses permitted in the GB district, except that commercial hours of operation shall be limited to 7 a.m. to 12 a.m.
 2. Hotel, Motel, or Bed and Breakfast
 3. Multi-family / Apartment
 4. Uses permitted in the VFMR

Note: VFMC areas will be under purview of the Design Review Board (DRB).

B. Development Regulations

All lots must conform to dimensional, density, and zoning requirements as found in the following chart:

	VFMR	VFMC
Min. Front Yd. Setback (ft.)*	5	0
Min. Side Yard Setback (ft.) from Property**	5	5
Min. Rear Yard Setback (ft.) from Property***	10	0
Min. Street Side Yard Setback (ft.) from Property Line	10	10
Build to Zone at Right of Ways *	5' - 15'	0'-10'
Accessory Building front setback toward rear from primary façade	10'	10'
Accessory Building side and rear setback	3'	3'
Maximum Ht.	3 stories	4 stories
Building Coverage (Max. %)		

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Commercial & MF	100%	100%
Single Family Attached	80%	85%
Single Family Detached	90%	95%
Minimum Lot Area (square feet)		
Commercial	None	None
Single Family Attached	2500	None
Single Family Detached	1280	None
Minimum Building Frontage along Right of Ways	None	65%.

* Setbacks and build-to lines shall be measured from the Right of Way line or innermost easement line. Flexibility for trees may be granted.

**Unless common wall construction

***Modified setbacks apply to properties adjacent to Fenwick. See Buffers in Section 4.

1. Development standards for *Village at Fenwick Mixed-Use Residential (VFMR)*

- a) Architectural design must address and respond to the architectural elements present in Fenwick and must address the Fenwick side entry drive. This shall be enforced by the Architectural Review Board (ARB).
- b) A maximum of 50 accessory dwelling units (ADUs) shall be allowed, with the number per lot not to exceed 1 ADU. ADUs shall not count toward the allowable density calculation. ADUs shall be limited to 800 s.f of habitable area, excluding garage space. See section III, A, 2 for ADU definition. ADU approval and monitoring shall be the responsibility of the future Village at Fenwick DRB.
- c) Compact lots will be encouraged.
- d) The minimum lot frontage for lots with vehicular access to an alley may be 15'. This will allow flexibility for unique lot configurations to work around existing trees and common spaces.
- e) The maximum block size will be 800' x 800'. Blocks size shall be defined as the distance between Right of Ways, primary vehicular drives with angled or parallel parking, and / or Pedestrian Access Easements with leisure trails. Perimeter lots (lots with property lines on the PUD boundary) will be excluded from this requirement.
- f) Only 25% of the total lots on each street may have front loaded attached garages.

2. Development standards for *Village at Fenwick Mixed-Use Commercial (VFMC)*

- a) Drive-thru lanes shall be permitted but should be oriented away from the nearest existing ROW.
- b) There shall be no lot size requirements.
- c) Corner lots shall meet City of Charleston vision clearance triangle requirements.
- d) Steps, open stairways, open porches, eaves, roof awnings and decks may extend up to 5' into street front setback, but in no instance can they extend into the right of way.

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- e) Individual commercial building footprints shall be limited to 30,000 square ft. max. footprint area.
- f) Block Size shall be a maximum of 600' x 600'. Blocks size shall be defined as the distance between Right of Ways, primary vehicular drives with angled or parallel parking, and / or Pedestrian Access Easements with leisure trails.
- g) Building Frontage shall be defined as the width of a building along a street, including parallel walls or fences, but excluding roof overhang and canopies, and any ornamental features that cause a protrusion from the walls of the building. Building frontage shall be measured as the combined width of the building faces that front the street and lie within setback limits or build to zones. When the width of the building varies vertically, building frontage shall be measured at ground level.
- h) Build-to Zone shall be defined as an area of a lot designated for placement of a building façade along a street, located parallel to a front property line. The Build-to Zone defines an area in which the locations of building fronts can vary within a specified range. Grand Tree Drip Zones and formal Open Spaces may be excluded from frontage calculations.

3. Off-Street Parking

- a) The proposed development shall refer to the Peninsula parking requirements outlined in the City of Charleston zoning ordinance and will be held to the "on peninsula" parking quantities.
- b) Platted private drives may be unpaved and include a minimum 20' long paved apron at street connections and paved areas to meet ADA compliance. Unpaved drives must be reviewed and approved by City of Charleston Staff.
- c) For any single-family and private properties, all driveways may be unpaved.
- d) Two way parking drive isles may be 22' and parking space dimensions may be 9'x18'. If no vehicle overhang is provided, parking spaces shall be the standard 9'x18.5'.
- e) Multi-level Parking Garages shall not be allowed.
- f) Parking areas and private drive isles may be paved, gravel, sand shell or of another pervious material.
- g) There shall be no parking between building fronts and Right of Ways in the VFMC areas.

See Appendix H for the City of Charleston Lower Peninsula Parking Standards.

4. Buffers

- a) Interior buffers between internal uses shall not be required.
- b) Wetland buffers may be required by the Army Corps of Engineers or SCDHEC Coastal Zone Consistency and shall be provided per their requirements.
- c) Wetland buffers will be outside of platted lots and will be owned and maintained by the Property Owner's Association (POA).
- d) Wetland buffers shall be per U.S. Army Corps of Engineers or SCDHEC Coastal Zone Consistency requirements. These buffer requirements supersede any City of Charleston requirements. Paved or non-paved walking trails, 5' wide or less will be allowed within the wetland buffers subject to U.S. Army Corps of Engineers' or SCDHEC Coastal Zone Consistency approval. If paths are not permitted by U.S. Army Corps of Engineers, Open Space may be required elsewhere such that the minimum requirement is met.
- e) A required, Type F, 50' buffer will be provided along Maybank Highway and will be maintained by the POA. This buffer will maintain required plant materials or may remain undisturbed. The proposed Linear Park will be located adjacent and run parallel to the Maybank Highway buffer.

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- f) Buffers and modified setbacks will be required along the Fenwick Allee and Rear property line. See Appendixes for buffer exhibits. Buffers will be within POA easements and will be maintained by the POA. Within the buffers, supplemental plantings may be allowed, otherwise buffers are to be left undisturbed. A masonry wall will be allowed in the buffer along with opportunities for plant screening.
- g) Supplementary to the Fenwick buffers, houses will be required to be subtle neutral tones, to minimize visual impact to the plantation. Color swatches shall be submitted for review and approval to the future Village at Fenwick ARB.
- h) Buffers are shown on the Open Space Plan and in the appendices of this document. With the exception of wetland buffers, no other buffers other than those indicated on the open space plan and described here within shall be required.

IV. Surveys

Plats and a Preliminary Wetland Survey have been included in the appendixes of this document. Tree surveys and wetland surveys will be required prior to any future Concept Plan or Preliminary Plat submittal.

V. Traffic Study

A traffic study has been previously completed for Pitchfork Road improvements and can be found on file with the City of Charleston. An executive Summary has been included in the appendix K of this document.

VI. Streets, Sidewalks, and Trails

- A. Streets within the Village at Fenwick PUD shall allow Neighborhood District street classifications and right of way design standards (Sections 54-820, - 821[a,d,h,l,m,n,u,p,q,r,s,t,u], -822,-823 of the City of Charleston Zoning Ordinance) as well as the new street sections found in Appendix G. Also, the developer may present modified versions of these street sections to be reviewed and approved through the TRC and Concept Plan process.
- B. Unpaved private streets, such as gravel, sand shell, or plantation mix shall be allowed if approved by City of Charleston Staff. Should an unpaved private road be desired, a street section shall be submitted to the City of Charleston Staff for review and approval. A parallel sidewalk or trail along unpaved streets may be allowed to satisfy ADA accessibility.
- C. Streets, public or private, may be studied with digitally simulated emergency and service vehicle modeling to ensure proper service and access. Exhibits shall be provided to city of Charleston as requested by City Staff.
- D. Sidewalks, parks, playgrounds, trails, pier/docks, pedestrian bridges, bicycle paths and any non-paved streets or roads that don't have sidewalks shall be ADA Compliant or maintain a proper ADA route throughout the development.
- E. Should public streets be used they will be paved and designed per City of Charleston standards and maintained by the City of Charleston if accepted. However, curb may be omitted to allow for bio-swales and other low impact development practices, pending review and acceptance by the City of Charleston staff.
- F. No new driveway or street connection to Maybank Highway shall be permitted from the planned development except for the planned 'Pitchfork Road', subject to the approval of the City of Charleston. No new street or driveway connections from the planned development to River Road shall be permitted except for the planned 'Pitchfork Road' connection. The existing vehicular connection from TMS 346-00-00-008 to Maybank Highway may remain. Approval of this PUD shall remove and replace the language found in restrictive covenant #4 pertaining to parcel 346-00-00-076 found in (Bk Y166, Pg 522; Bk V142, Pg 434) with the language found in this paragraph. See Appendix E for Restrictive Covenants. Vehicular connections to the Village at Fenwick shall be provided along the new Pitchfork Road.

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- G. Due to significant tree resources, and an anticipated tight imprint approach, cul-de-sac and hammerhead turn-arounds shall be allowed.
- H. Gated streets shall not be permitted.
- I. Pervious pavers, if approved by the City of Charleston Public Services Department, may be utilized in Public or Private Right-of-Ways (ROWs) where streets or sidewalks encroach into grand tree drip zones. Non-standard materials will require DRC approval.
- J. Temporary Right of Way cul-de-sac and / or temporary private cul-de-sacs shall be a minimum of 96' diameter measured at the ROW or easement line.
- K. The neighborhood will provide a continuous connected leisure trail system linking units and common space areas. Leisure trails shall be a minimum of 5' in width (see open space section), composed of concrete asphalt, pavers, or pervious material, and must meet ADA requirements. The leisure trail will connect all useable park spaces. The Open Space plan layout of the leisure trail is highly conceptual and will be subject to modification due to final site layouts. Leisure trails will be allowed to replace required sidewalks, such that pedestrian connectivity and ADA accessibility is maintained throughout the design. All walks outside of the ROW will be maintained by the POA. The requirement for trail and / or sidewalk shall not be dependent on Street Type.
- L. The minimum sight triangle for stop conditions at street intersections shall follow SCDOT ARMS manual standards.
- M. Lights shall not be required on private streets to minimize environmental impacts.
- N. Staff may approve reducing or eliminating Sidewalks within ROWs due to grand or significant tree conflicts, such that a proper ADA route is maintained.

VII. Drainage

- A. All drainage design should be in accordance to the City of Charleston Stormwater Design Standard Manual except that swales may be utilized on private drives and may vary from the Stormwater Manual regulations in order to accommodate light imprint practices. Swales will be maintained by the POA. Any proposed deviations from the Stormwater Design Manual will be coordinated through and require approval by City Staff.
- B. Streets within private ROWs and parking and drainage systems within private commercial areas shall be maintained by the POA. The city of Charleston shall maintain storm drainage systems that convey runoff from Public Land or Public Rights of Way.
- C. The site drainage system must meet all applicable State, and Federal storm water regulations. The proposed public roadway construction must comply with the requirements of the City's Zoning Ordinance Section 54-821, Table 8.1 or Table 8-2.1 (Neighborhood District), or be per the roadway standards or sections included within or referenced by this document.

VIII. Signs

- A. One master sign may occur on Maybank Highway immediately west of Fenwick Hall Allee and be subject to permitting. One master sign may occur at the connection to River Road and be subject to permitting. Master sign heights shall be limited to no more than 10' in height above proposed grades and no more than 40 square feet of sign face per side. No backlit signs are allowed along Maybank Highway and River Road. The master entrance subdivision signs will be designed according to Article 4 of the City of Charleston zoning ordinance and may occur within buffers.
- B. A single secondary entrance sign per tract may be constructed at connection points to the Pitchfork Road or adjacent properties. Secondary entrance signs will be a maximum of 5' high with a maximum of 20s.f. of sign face per side.
- C. All signs and associated landscaping will be maintained by the POA. All master signage will be submitted for site plan and encroachment permit review. All other signs will be in accordance with the City of Charleston standards.
- D. There will be directional and traffic signage located throughout the development.

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IX. Amenity Areas and Open Space

A. Required Open Space Chart:

	<u>OVERALL OPEN SPACE* (20% of Site)</u>	<u>USEABLE OPEN SPACE* (25% of Overall Open Space)</u>
Minimum	11.78 Min.	2.95 Ac.
Projected	17.13 Ac	5.01 Ac.

B. Open Space Definitions and Requirements:

1. Open space is calculated as 20% of the gross acreage. The proposed Open Space Plan meets or exceeds the required open space.
2. Usable open space is calculated as 25% of the required open space. The proposed Open Space Plan meets or exceeds the required usable open space.
3. Useable open space improvements must be shown on Construction Documents and installed prior to final plat, with the exception of the Farmer's Market. Designs for the Farmers Market shall be included with preliminary plat submittal for the first phase of VFMC, and the Farmers Market shall be constructed prior to the C/O for the first building in VFMC.
4. The size and location of open space and useable open space shown within the Open Space Plan included in this document are subject to adjustment; however, these spaces will remain in excess of the required minimums.
5. Open space definitions are as follows:

Open Space. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space shall not include streets, drives, off-street parking and loading areas, area so located or of such size or shape to have no substantial aesthetic or recreational value and any area within residential lots.

Useable Open Space. Open space areas of high ground developed to provide for active recreational uses. Examples of possible types of usable open spaces could include paths, play fields, benches, walking trails, picnic areas and ponds with seating areas.
6. A connected system of open space leisure trails, a farmers market, dog park, playfields or community gardens, and a linear park along Maybank Highway will be provided as useable open space. All trails, walkways and paths shall be ADA Compliant.
 - a) **Farmers Market:** The farmers market will count towards useable open space requirements and will include an open air pavilion to be utilized as a programmed space for sales of local produce from local farmers to the public. Parking for the farmers market shall occur with the on-street parking spaces on Pitchfork Road, and

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may occur within the private parking lots within the VFMC area. The farmer's market space shall act as a passive playfield within VFMR until construction begins. The Farmer's Market will be owned and maintained by the POA but will be open to the public for events.

- b) **Linear Park:** The linear park will be located parallel to the Maybank Highway buffer, will count towards the useable open space requirement, and will include a 7' min leisure trail, benches or other seating opportunities, art, or an educational element that illustrates the history of Johns Island and Fenwick. The linear park may also include a wall, wooden decorative fence, or water feature. The Linear park will be owned and maintained by the POA but, will be open to the public.
- c) **Leisure Trails:** Leisure trails will be allowed to wind through buffers, between lots, or along ROWs to connect the site through a pedestrian network. The leisure trails will be a minimum of 5' wide, located within open space easements that are maintained by the POA, and easement areas may count toward the useable open space requirements. Leisure trail areas may include benches, swings, or seating areas. This network is conceptually shown on the open space plan in the appendices of this document, though actual routing is subject to final neighborhood design.
- d) **Dog Park:** A minimum 3,000 square foot fenced dog park will be included in the open space. The dog park will be accessible to all residents and will be owned and maintained by the POA. The Dog Park will be linked to the leisure trail system.
- e) **Community Garden or Play Fields:** A 1.37 acre community garden, playfield, or combination thereof will be improved below the SCE&G power line easement adjacent to the linear park. The open space area will include leisure trails that link to the overall trail system. The design of this area will be subject to SCEG approvals.

See Appendix D for Conceptual Open Space Plan.

X. Tree Summary

A. Existing Trees

1. The site is currently heavily wooded with a high concentration of grand live oaks. The vision of this project is to create a highly sensitive site plan effort that creates a meaningful gathering place and urban node that is respectful to the grand trees and natural surroundings.
2. A licensed independent arborist will be consulted to inspect the conditions and grade rating of existing grand trees. Every effort will be made to preserve A and B rated grand trees while other quality significant trees will be carefully evaluated and considered, while balancing the goal of creating a node for Johns Island.
3. Existing grand trees and their drip zones near the allee of oaks leading to Fenwick Hall and the Fenwick Hall property shall have proper and specific attention through construction and future planning as to avoid disrupting the natural aesthetic of the site.
4. Tree surveys will be provided prior to concept plan submittal.
5. All grand and protected trees shall be govern by Part 6 of the City of Charleston's Tree Protection Ordinance. Should the removal of a grand tree be deemed necessary, the Board of Zoning Appeals process shall be utilized.

B. Street Trees

1. Canopy Street trees will be required in the Public or Private right of way. Street trees will not count towards tree mitigation for tree variances. A Street Tree Plan will be required to be submitted for review and approval by the City Parks Department.

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2. Existing significant or grand trees with that fall within 12' of a proposed right of way shall count towards the street tree requirement, subject to Parks Department approval.
3. Due to the high amount of anticipated significant and grand trees, city staff shall have the right to grant flexibility on size, species, spacing and location of required street trees in order to minimize the impact to existing trees.
4. Native tree species are encouraged to preserve the existing natural characteristic throughout the site.

XI. Additional Development Criteria

Sales and/or construction trailers and associated parking areas are allowed on POA areas or designated lots prior to the recording of plats. Site plan review and issuance of clearing and grading permits are required prior to the issuance of the required building permit.

In all cases where sidewalks, tree plantings, or mitigation plantings are required prior to the approval of a final plat for the property, sidewalks and tree mitigation shall be installed, inspected and deemed acceptable by the City. Sidewalks and tree plantings shall be contingent upon approval of encroachment permit and construction plans by the City. These items will be submitted for review to Public Services, Engineering and Parks and Recreation Departments.

Water will be served by Saint Johns Water Company

Sewer will be served by Charleston Water Systems for this project.

Gas will be served by SCE&G.

XII. Subdivision

Commercial and single family lots will be subdivided through subsequent plat submittals. The commercial parcel may be subdivided into multiple lots, provided that the subdivision meets the development criteria set forth in the standards of this PUD. The Village at Fenwick PUD will be a multi-phased development. A phasing plan will be submitted with the Concept Plan submittal and included / adjusted as necessary with subsequent Preliminary Plat submittals. Subdivision may occur off of platted private drives or pedestrian access easements, such that acceptable emergency access is provided.

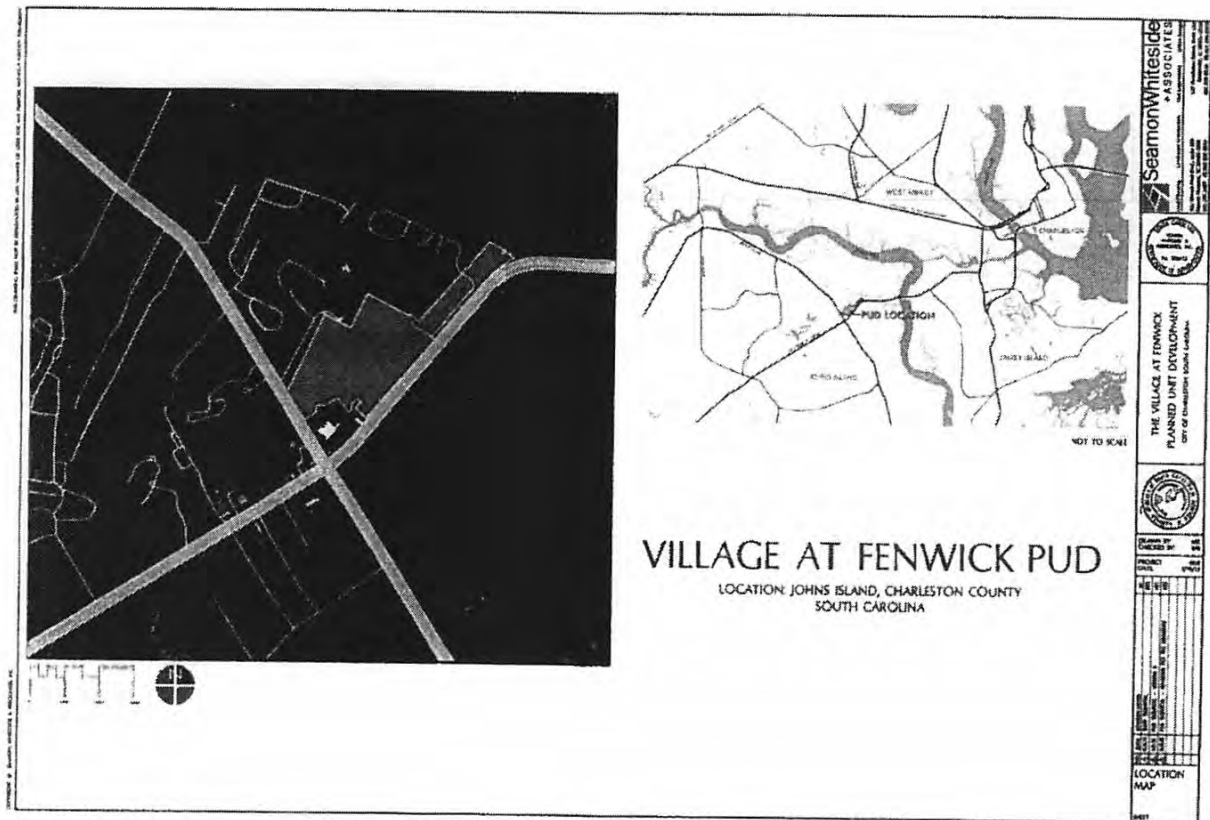
XIII. Cultural Resources

A cultural resources study for the property was completed in 2001. A copy of the full cultural resources report is on-file with the City of Charleston. A summary of the report can be found within the appendices of this document.

XIV. Appendices

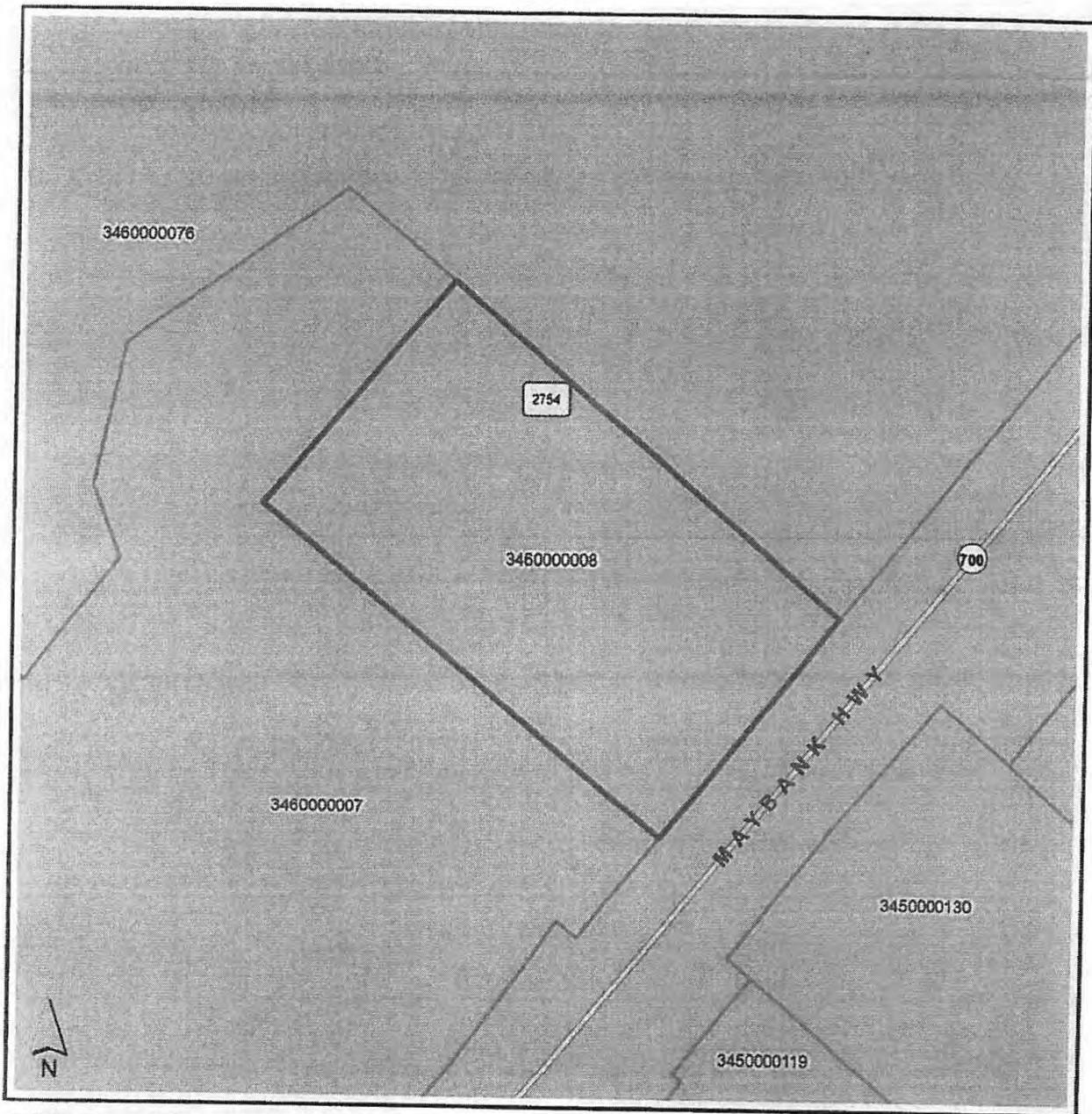
***Planned Development Guidelines
Village at Fenwick
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APPENDIX A



***Planned Development Guidelines
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December 7, 2015***

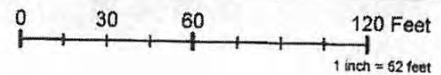
APPENDIX B



Village at Fenwick Plantation

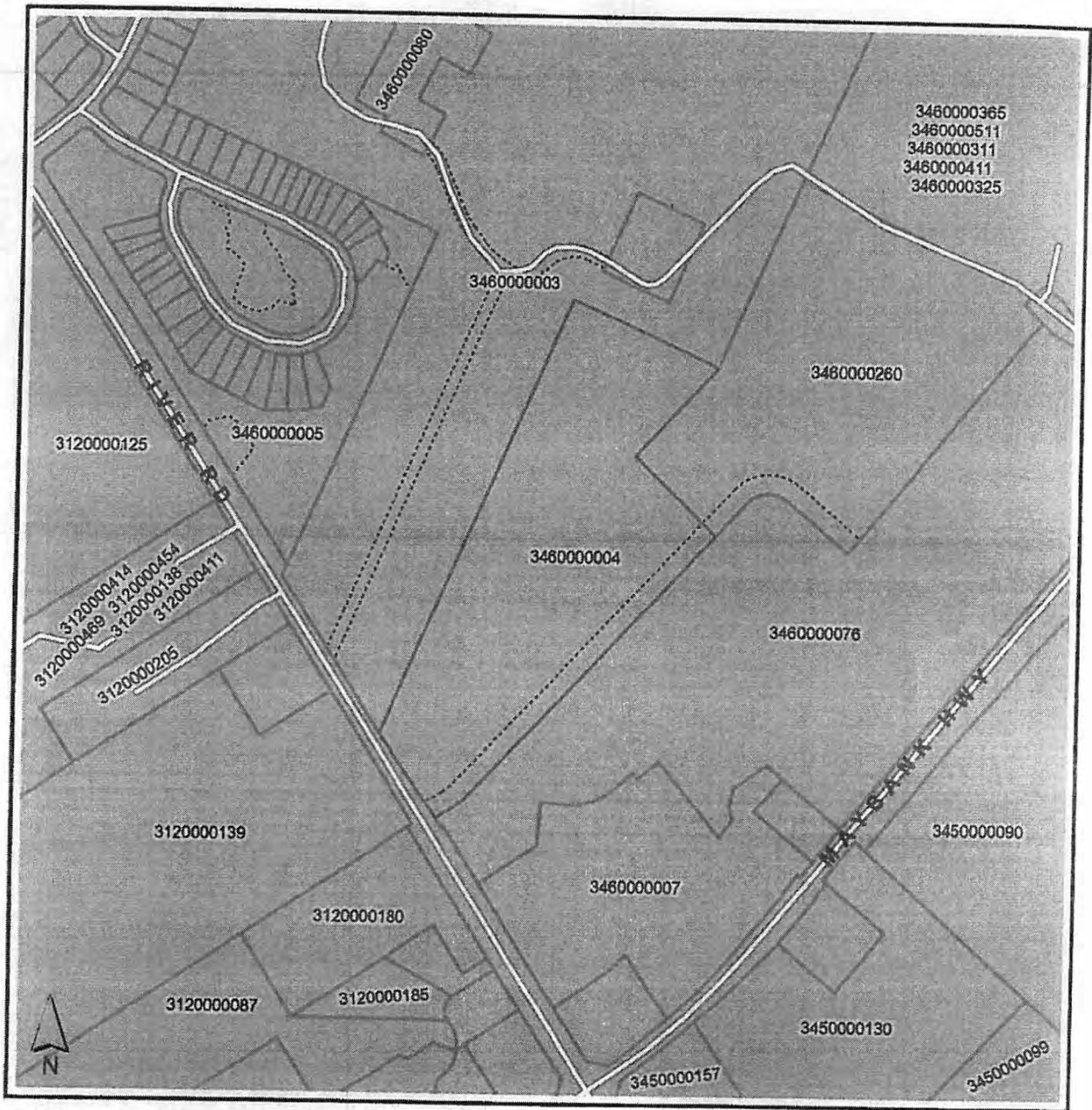
Parcel ID: 3460000008
Owner1: MAYBANK 2754 LLC
Prop St Number: 2754
Prop St Name: MAYBANK
Prop Type: HWY
Acreage: 0.55
Class Code: 650 - SPCLTY-OFC

Plat Book Page: T-139
Deed Book Page: F583-757
Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 9/15/2015



Village at Fenwick Plantation

Parcel ID: 3460000004

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 0

Prop St Name: RIVER

Prop Type: RD

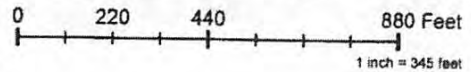
Acreage: 12.64

Class Code: 800 - AGRICULTURAL

Plat Book Page: AO-74

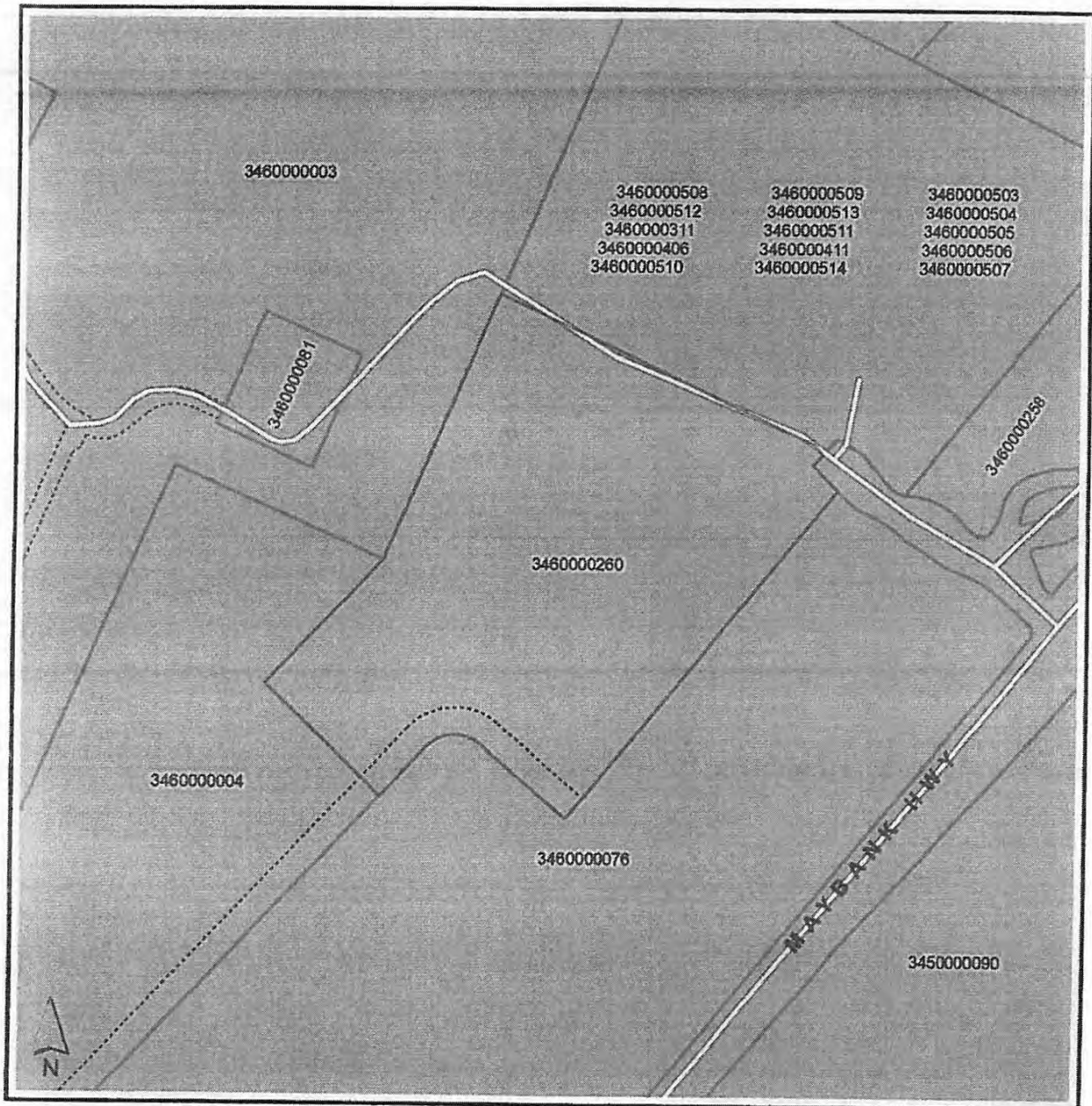
Deed Book Page: O352-691

Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 8/25/2015



Village at Fenwick Plantation

Parcel ID: 3460000260

Owner1: FAISON-FENWICK HALL

Prop St Number: 0

Prop St Name: FENWICK HALL ALLEE

Prop Type: null

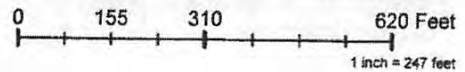
Acreage: 12.25

Class Code: 900 - RES-DEV-ACRS

Plat Book Page: EH-903

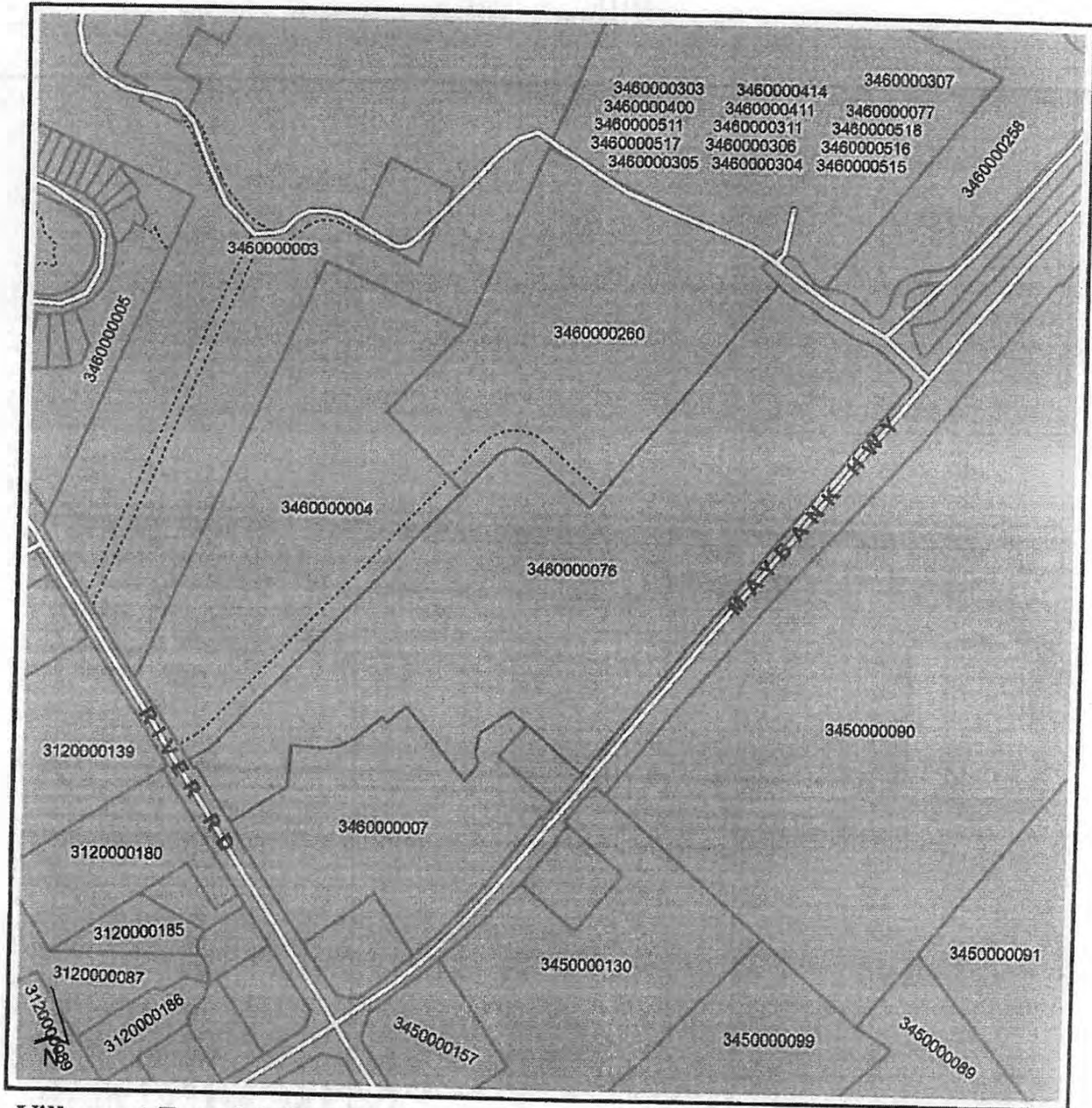
Deed Book Page: U537-570

Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 8/25/2015



Village at Fenwick Plantation

Parcel ID: 3460000076

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 0

Prop St Name: MAYBANK

Prop Type: HWY

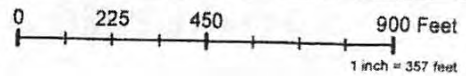
Acreage: 22.93

Class Code: 800 - AGRICULTURAL

Plat Book Page: EH-817

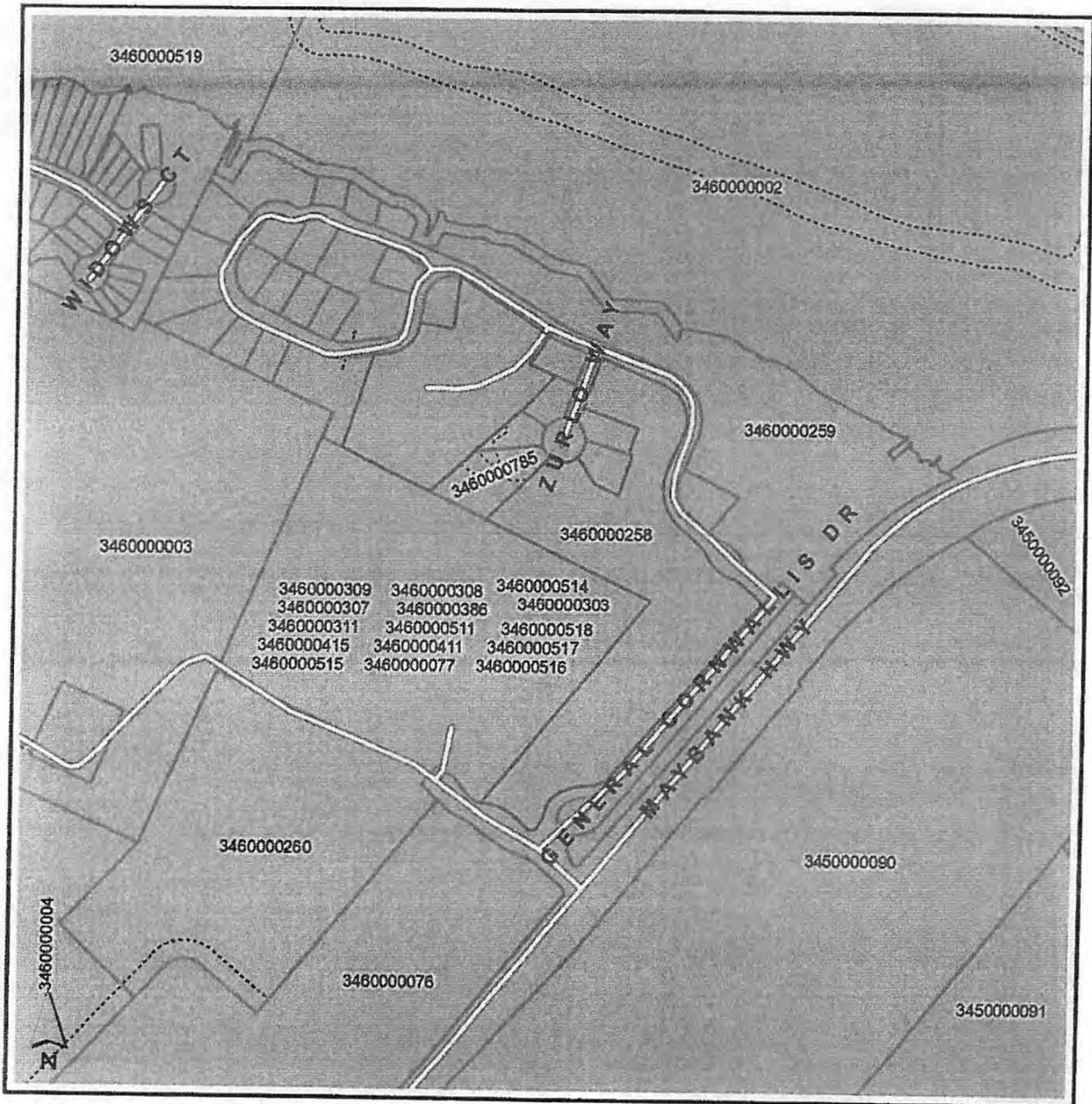
Deed Book Page: O352-691

Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 8/25/2015



Village at Fenwick Plantation

Parcel ID: 3460000258

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 0

Prop St Name: JOHN FENWICK

Prop Type: LN

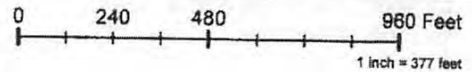
Acreage: 15.06

Class Code: 800 - AGRICULTURAL

Plat Book Page: null

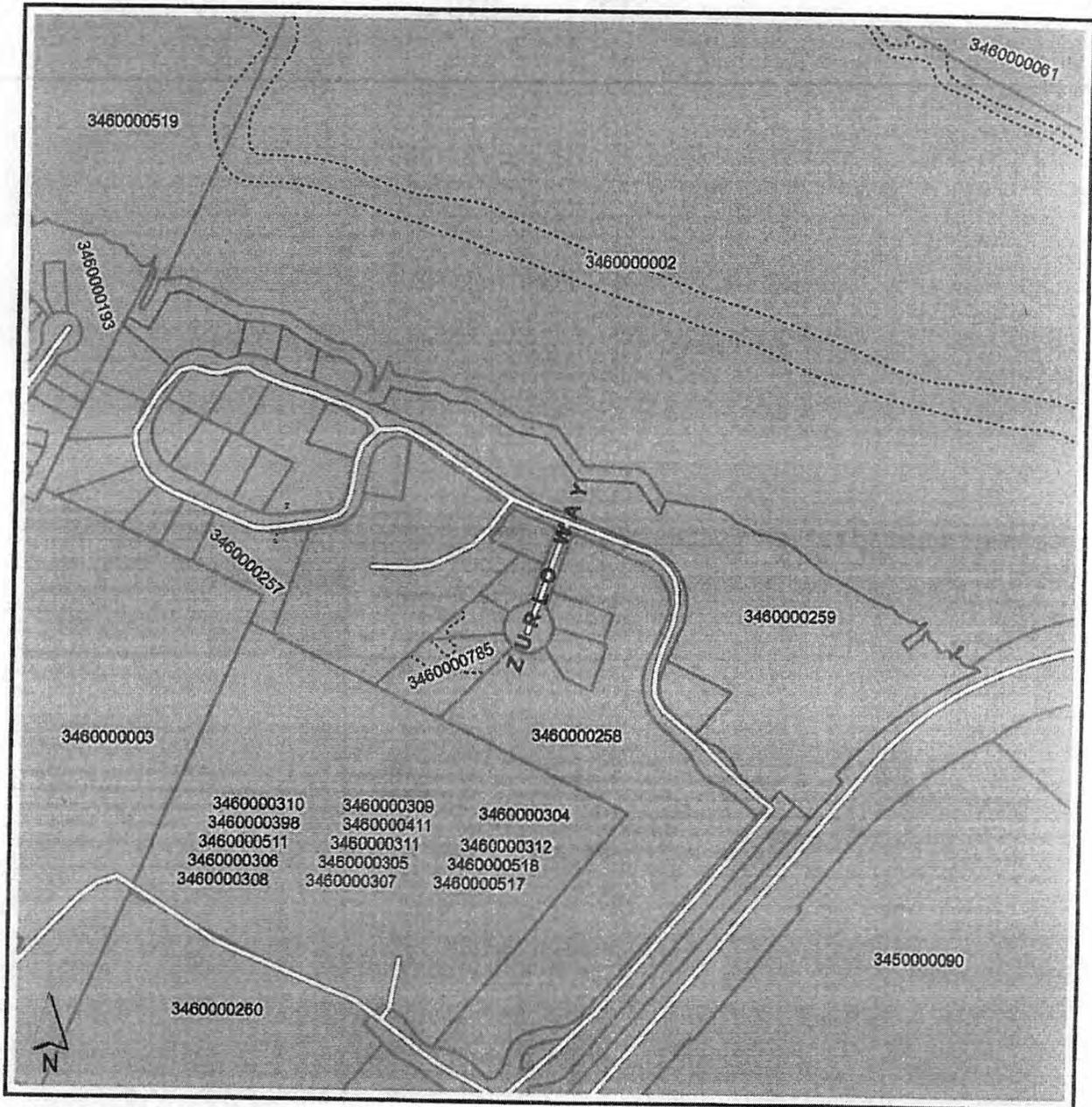
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Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 8/21/2015



Village at Fenwick

Parcel ID: 3460000259

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 1513

Prop St Name: JOHN FENWICK

Prop Type: LN

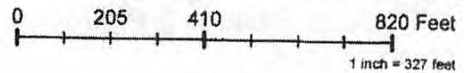
Acreage: 9.76

Class Code: 800 - AGRICULTURAL

Plat Book Page: XXX-L100154

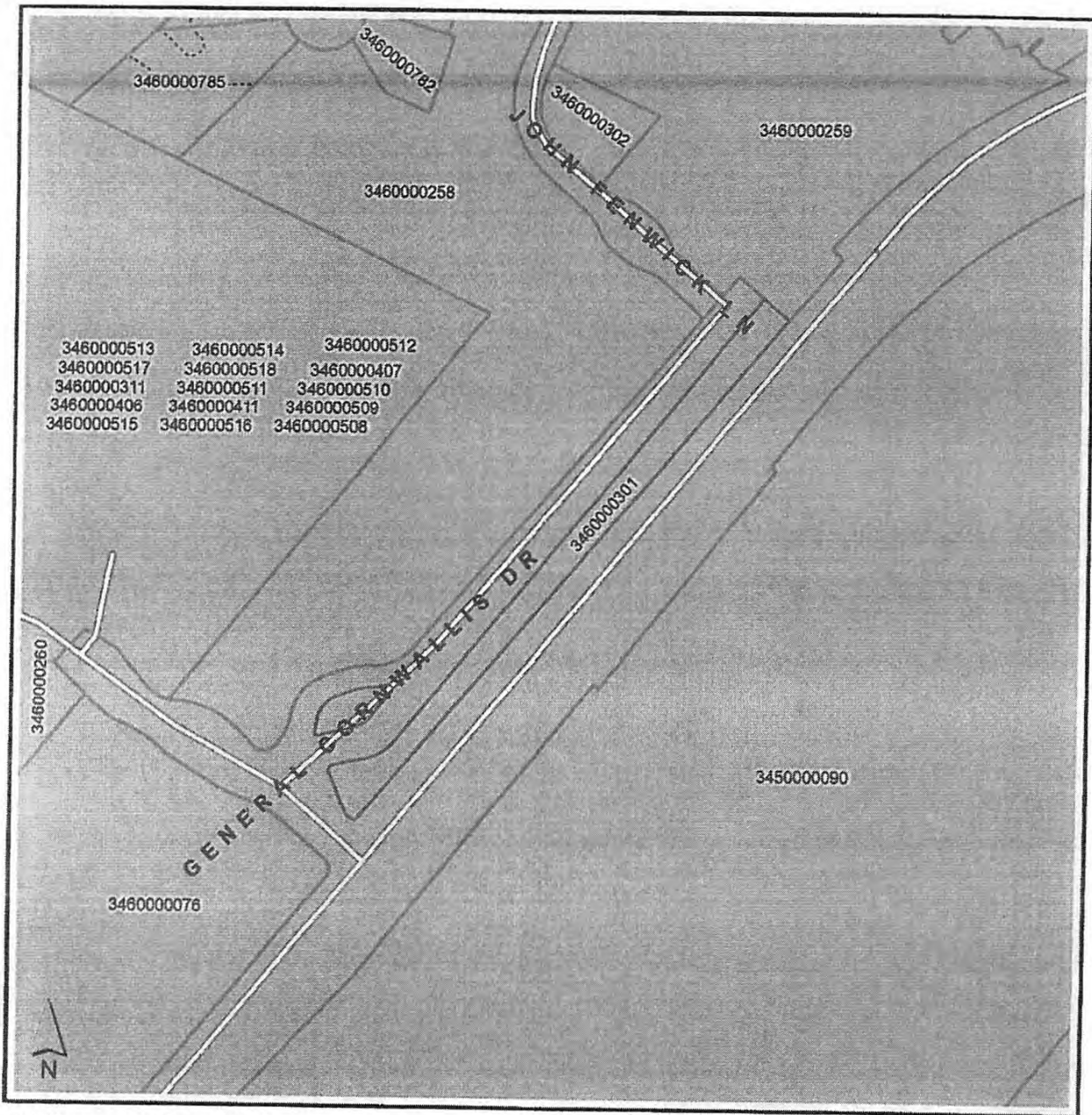
Deed Book Page: D323-439

Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 8/21/2015



Village at Fenwick

Parcel ID: 3460000301

Owner1: FENWICK HALL PLANTATION

Prop St Number: 0

Prop St Name: JOHN FENWICK

Prop Type: LN

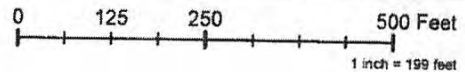
Acreage: 1.31

Class Code: 990 - UNDEVELOPABLE

Plat Book Page: EJ-722

Deed Book Page: F583-397

Jurisdiction: CITY OF CHARLESTON

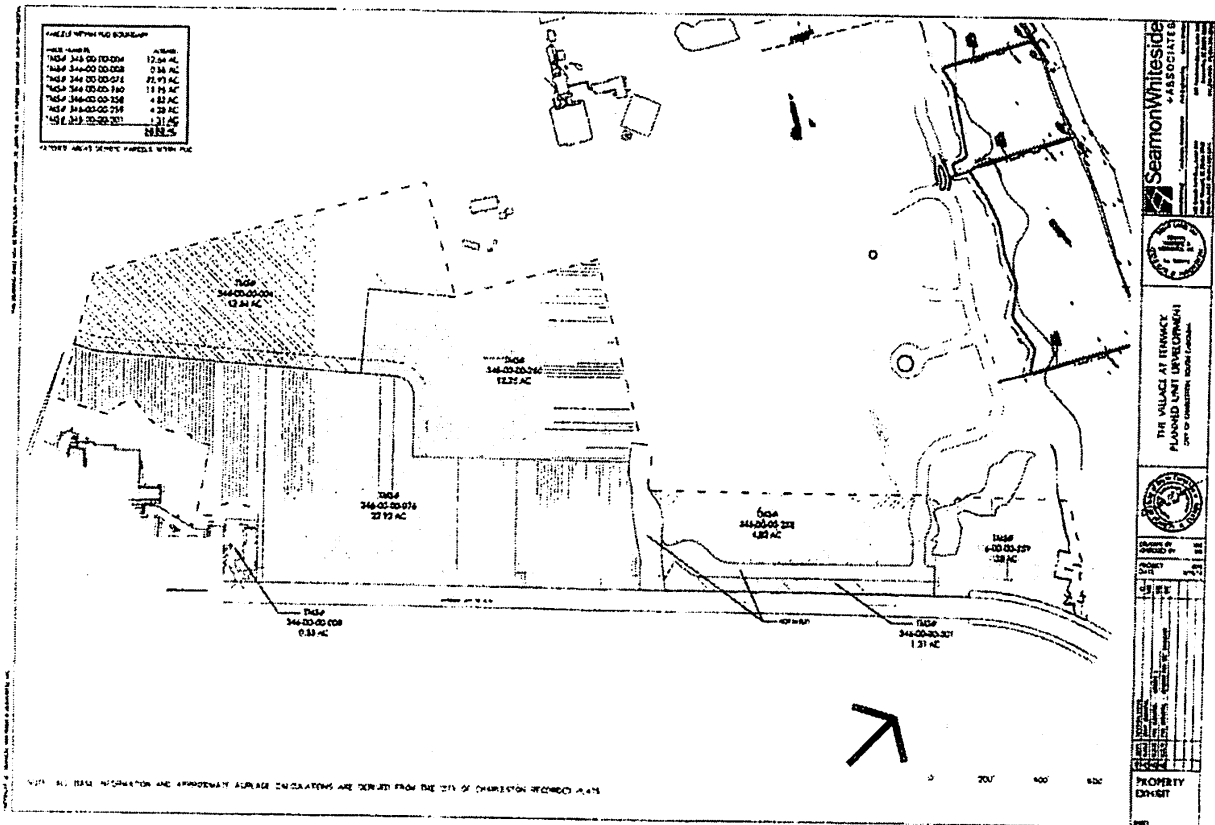


Note: The Charleston County makes every effort possible to produce the most accurate information. The layers contained in the map service are for information purposes only. The Charleston County makes no warranty, express or implied, nor any guaranty as to the content, sequence, accuracy, timeliness or completeness of any of the information provided. The County explicitly disclaims all representations and warranties. The reader agrees to hold harmless the Charleston County for any cause of action and costs associated with any causes of action which may arise as a consequence of the County providing this information.

Author: Charleston County SC
Date: 8/21/2015

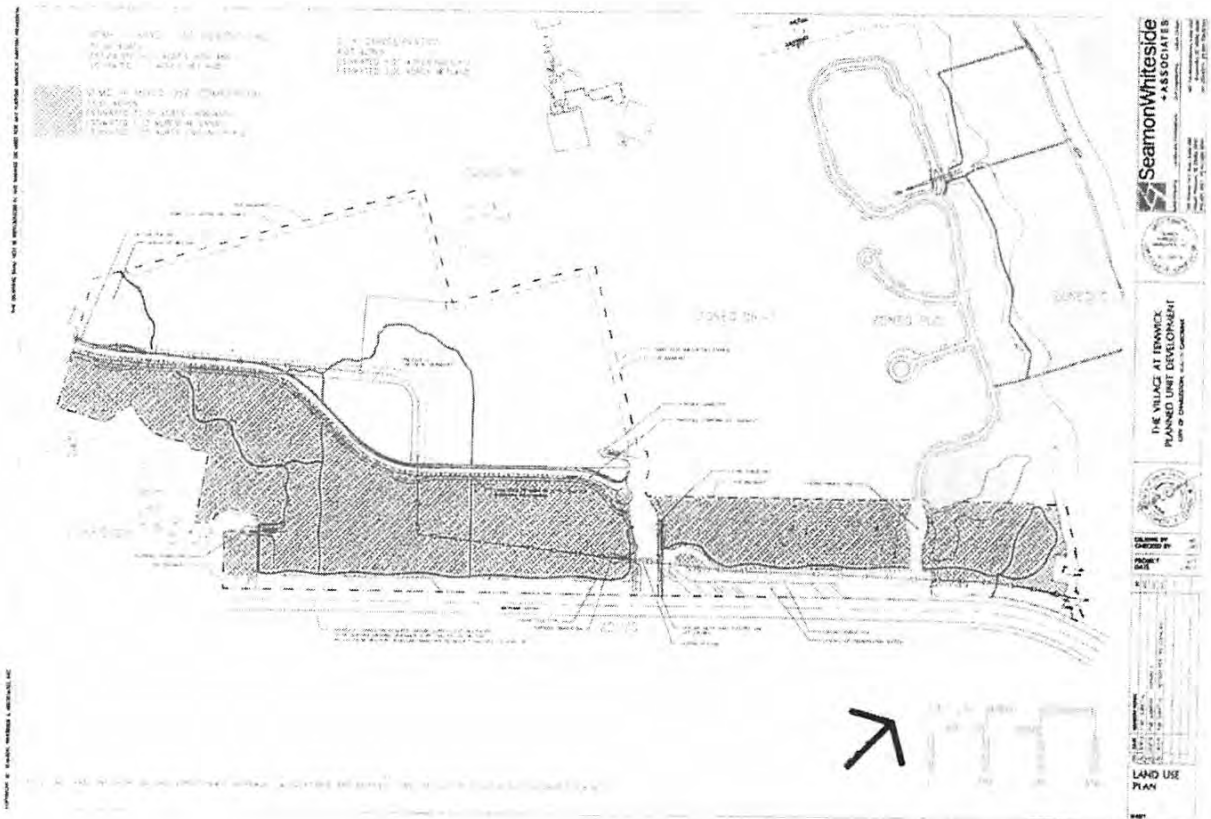
***Planned Development Guidelines
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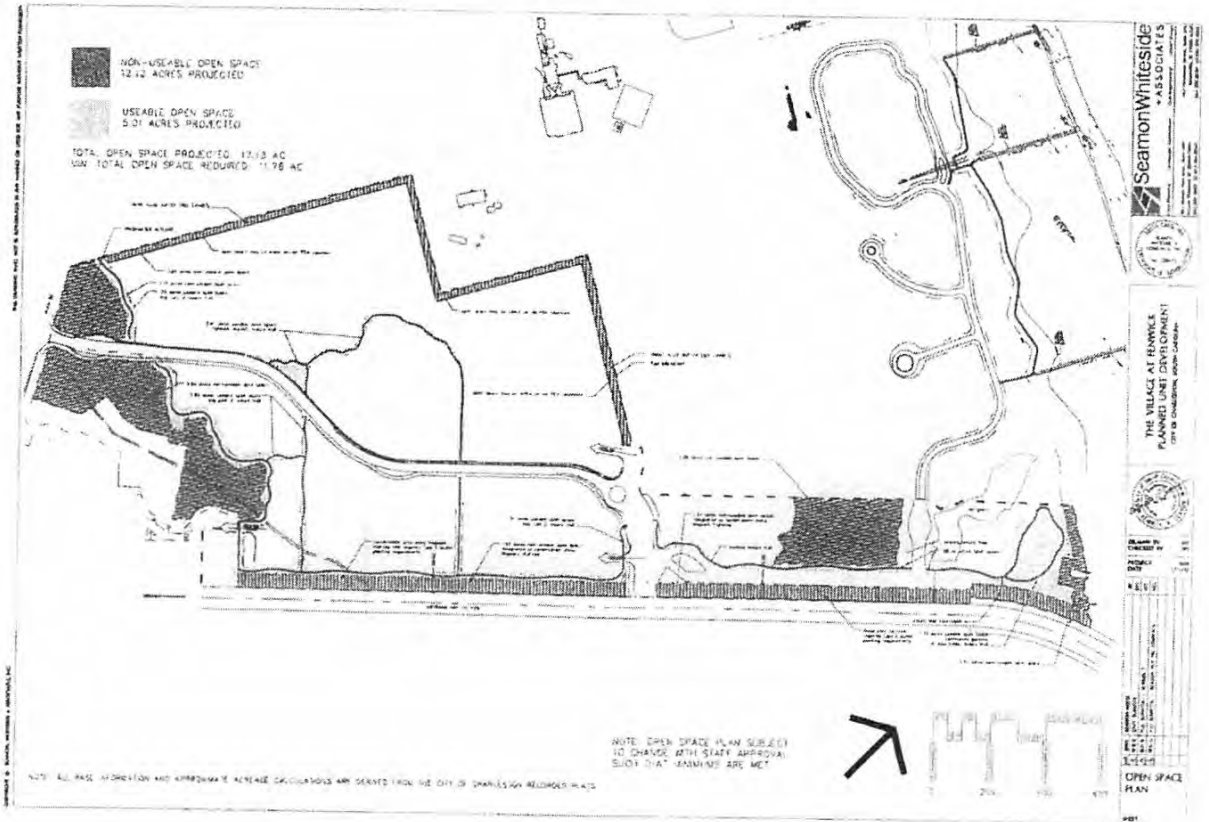
APPENDIX C



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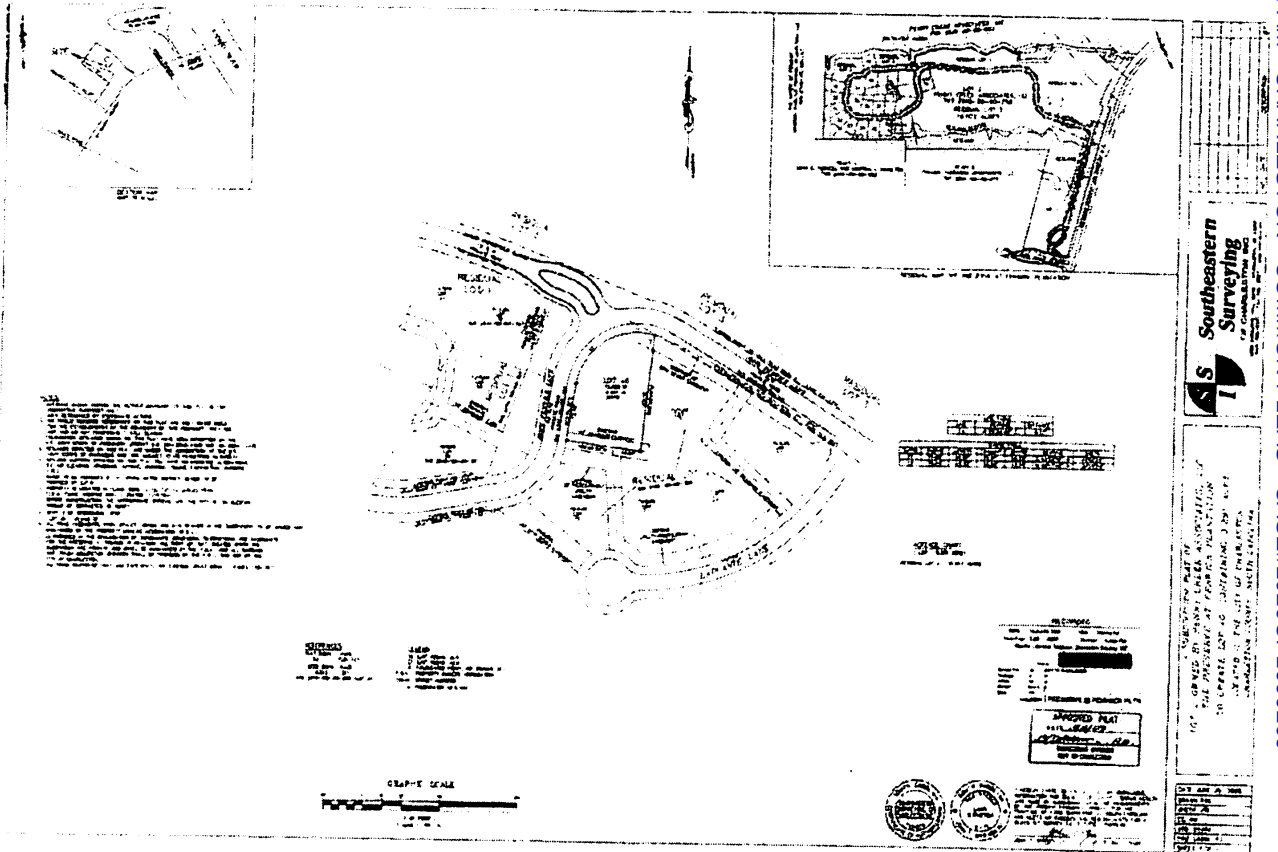
APPENDIX D

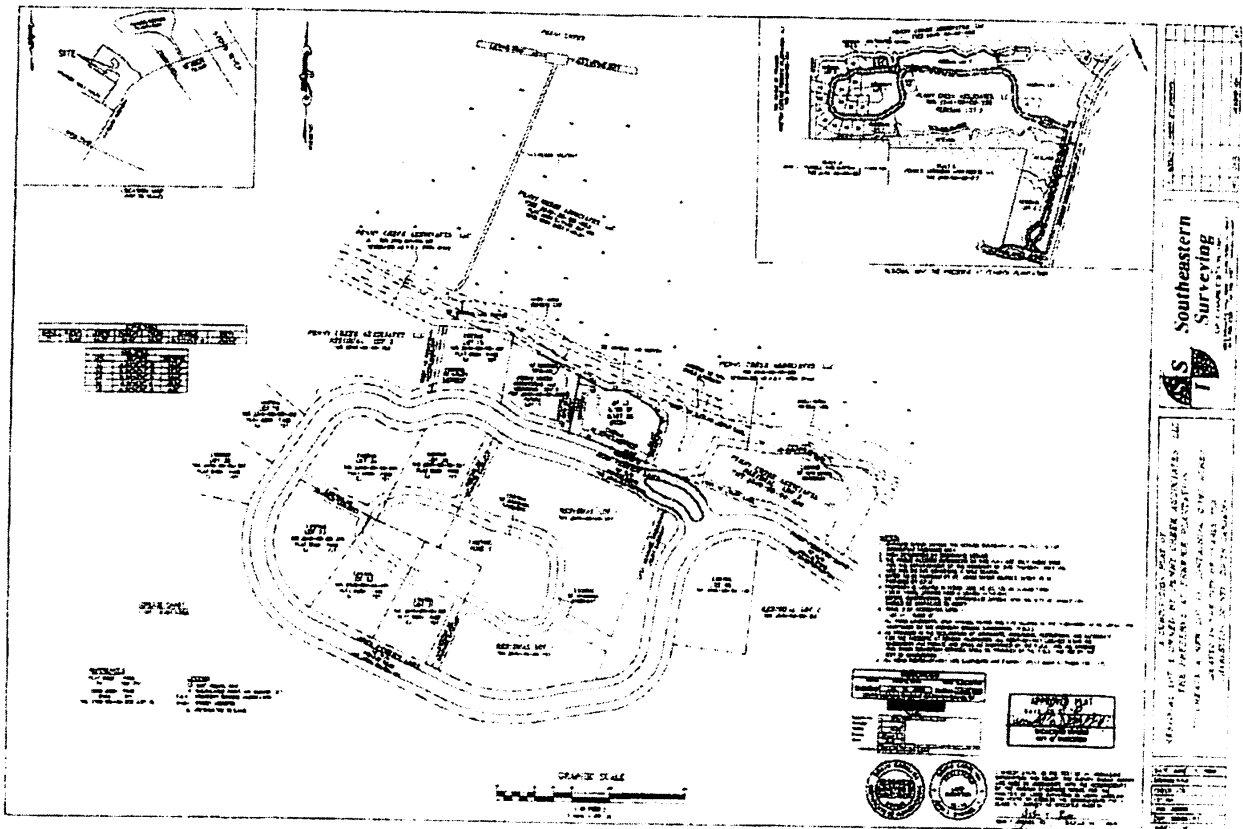


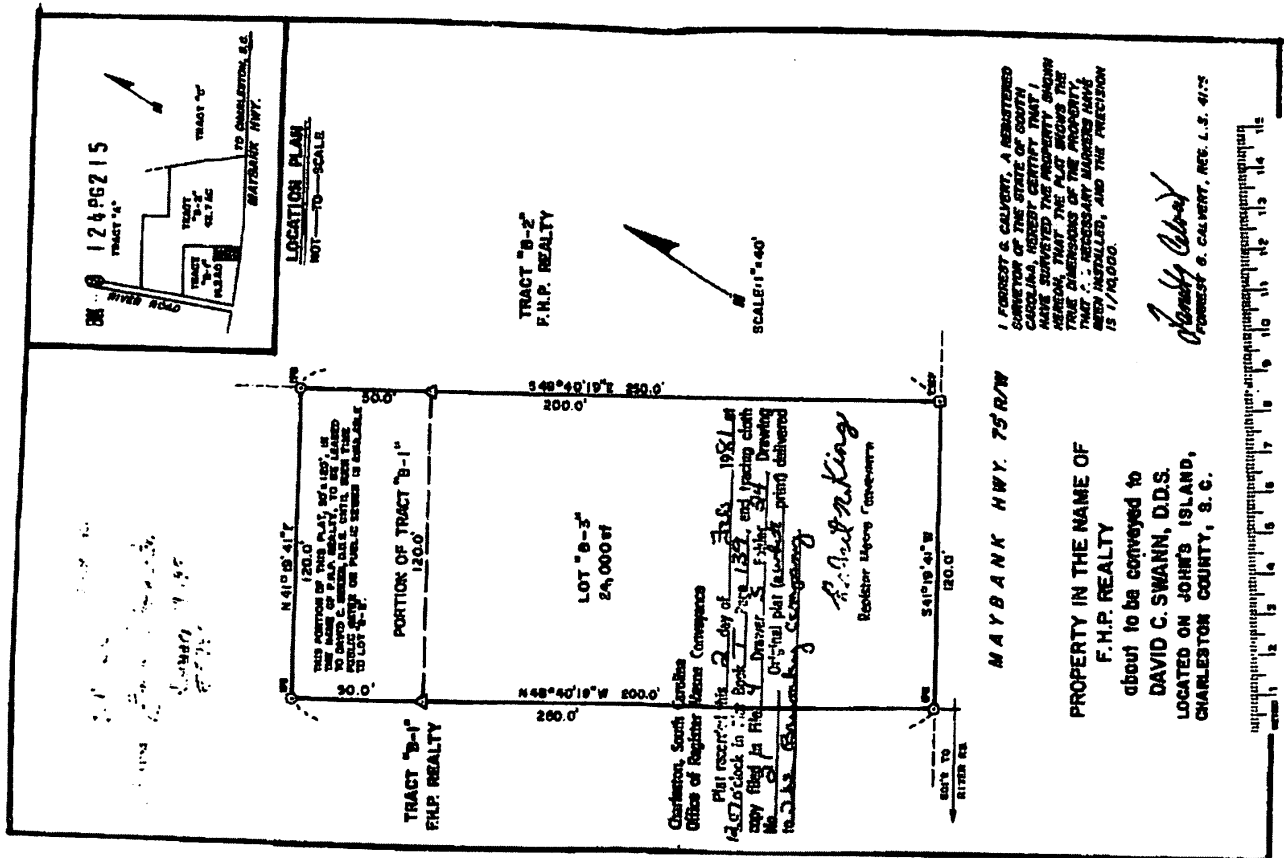


***Planned Development Guidelines
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APPENDIX E







STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

RESTRICTIVE COVENANTS

WHEREAS, FHP Realty Company is the owner of the following described property, containing various zoning classifications of Conservation (C), DR-9 (Diverse Residential), GB (General Business) and General Office (GO) as fully described in the Zoning Ordinance of the City of Charleston, South Carolina; and,

WHEREAS, FHP Realty Company (hereinafter sometimes called Owner), has determined it to be in its best interest that its land be developed in an orderly manner, and in an effort to assure the same, has determined to place restrictive covenants on lands identified as assessor's Tax Map #346-00-00-04 in the County of Charleston, South Carolina and described as follows:

(See attached)

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that FHP Realty Company in full furtherance of its interests in assuring orderly development of its land does hereby declare that the portion of the above referenced property comprising forty-two and seven-tenths (42.7) acres, more or less, is and shall be held transferred, sold, conveyed, given, purchased, leased, occupied and otherwise disposed of and used subject to the following Covenants and Restrictions, which will run with the land:

- 1) A fifty (50) foot wide preserve shall be maintained along the frontage of Maybank Highway and shall be developed in accordance with the zoning classification of Conservation (C) as defined under the of the Zoning Ordinance of City of Charleston, South Carolina.
 - a) Within six (6) months of the recording of these covenants a certified plat shall be prepared establishing the preserve of mature trees having a diameter of twelve (12) inches or more, measuring three feet above the ground of the fifty (50) foot wide preserve.
 - b) No person shall cut, remove, thin, in any way damage, or create any condition injurious to a tree shown on the plat. The preserve shall not be developed for parking and no structure shall be erected thereon (except for signage and lighting).
 - c) Any development of the preserve shall be guided by a tree survey locating all trees over twelve (12) inches caliper (measured three [3] feet above the ground) by genus and species with grade elevations at the base of the trunk. The survey shall be prepared at a scale not less than one (1) inch equals twenty (20) feet (1"=20') and presented to the Planning and Zoning Commission.

- d) The Planning and Zoning Commission shall review petitions to cut, remove, trim, in any way damage, or create any condition injurious to a tree having a diameter of twelve (12) inches or more, measured three (3) feet above the ground. The commission shall base its decision on whether the public and private benefit that will result from granting the petition outweighs the public and private benefit derived from denying the petition.
- 2) The property commencing at a point at the western most corner on Maybank Highway and continuing to a point four hundred fifty (450) feet east, parallel to the right-of-way of Maybank Highway and to a depth of seven hundred (700) feet north of the preserve shall be developed in accordance with the zoning classification of G8 (General Business) as defined under the of the Zoning Ordinance of City of Charleston, South Carolina. The remaining 966 feet of property immediately north of the preserve zoned Conservation (C) and adjacent to the west of the property zoned G8 (General Business) and to a depth of three hundred fifty (350) feet shall be developed in accordance with the zoning classification of General Office (G0) as defined under the of the Zoning Ordinance of City of Charleston, South Carolina.
- 3) The balance of the forty-two and seven-tenths (42.7) acres is given a zoning classification of DR-9 (Diverse Residential) allowing for multi-family use limiting the average density to nine (9) dwelling units per acre of highland.
- 4) Access to this property will be limited to two (2) points of entry from Maybank Highway and one (1) point of entry on River Road, lining up with the access to the west with assessor's Tax Map #312-00-00-139. In addition to the curb cuts described above, the owners shall create an access road intersecting with Maybank Highway at a location east of the five-tenths (.5) acre parcel known as assessor's Tax Map #346-00-00-08 and aligning with a similarly designed access road on the south side of Maybank Highway.

Additionally, the owner shall preserve the avenue of oaks found along the eastern property line and work with adjacent property owners to create a major point of entry that could provide access to the office development fronting on Maybank Highway and the residential development.
- 5) All development site plans shall be submitted and approved by the appropriate staff agencies of the City of Charleston.
- 6) These restrictive covenants shall be binding upon the Owner, its heirs, successors and assigns, and the restrictions contained herein shall run with the land. Any violation or attempted violation of any of the covenants or terms hereof may be enforced by the City Council of the City of Charleston in an action at law or in equity against the person or persons or corporations or other entity violating or attempting to violate any restrictive covenants, either to prevent such violation from occurring or to require the specific performance hereof; PROVIDED, HOWEVER, no violation of these restrictive covenants shall result in a forfeiture or reversion of title, notwithstanding any other provision of this instrument.
- 7) No amendment to these restrictive covenants shall be had unless the same has been approved by the record owners of the parcel subject to the amendment and by the City Council of the City of Charleston; PROVIDED, HOWEVER, that the City Council shall only approve an amendment to these covenants in such manner as provided by applicable city ordinances for amendment of the zoning maps then in effect at the time of the proposed amendment.

IN WITNESS WHEREOF, we have hereunto set our hands and seals as of
this 28th day of October, 1986.

WITNESS:

FHP REALTY COMPANY

Mary Jane Miller BY: Eugene C. Santos
Sandra H. Reed Eugene C. Santos, Partner
Mary Jane Miller BY: Sherman Yarbrough
Sandra H. Reed Sherman Yarbrough, Partner

STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

PROBATE

Personally appeared before me Mary Jane Miller who being duly
sworn deposes and says that he/she saw Eugene C. Santos, Partner of FHP
Realty Company, sign the within Restrictive Covenants and that he/she along
with Sandra H. Reed witnessed the execution
thereof.

Sworn to me this 28th day of October, 1986.

Sandra H. Reed
Notary Public
My Commission Expires: MY COMMISSION EXPIRES 11-25-1995

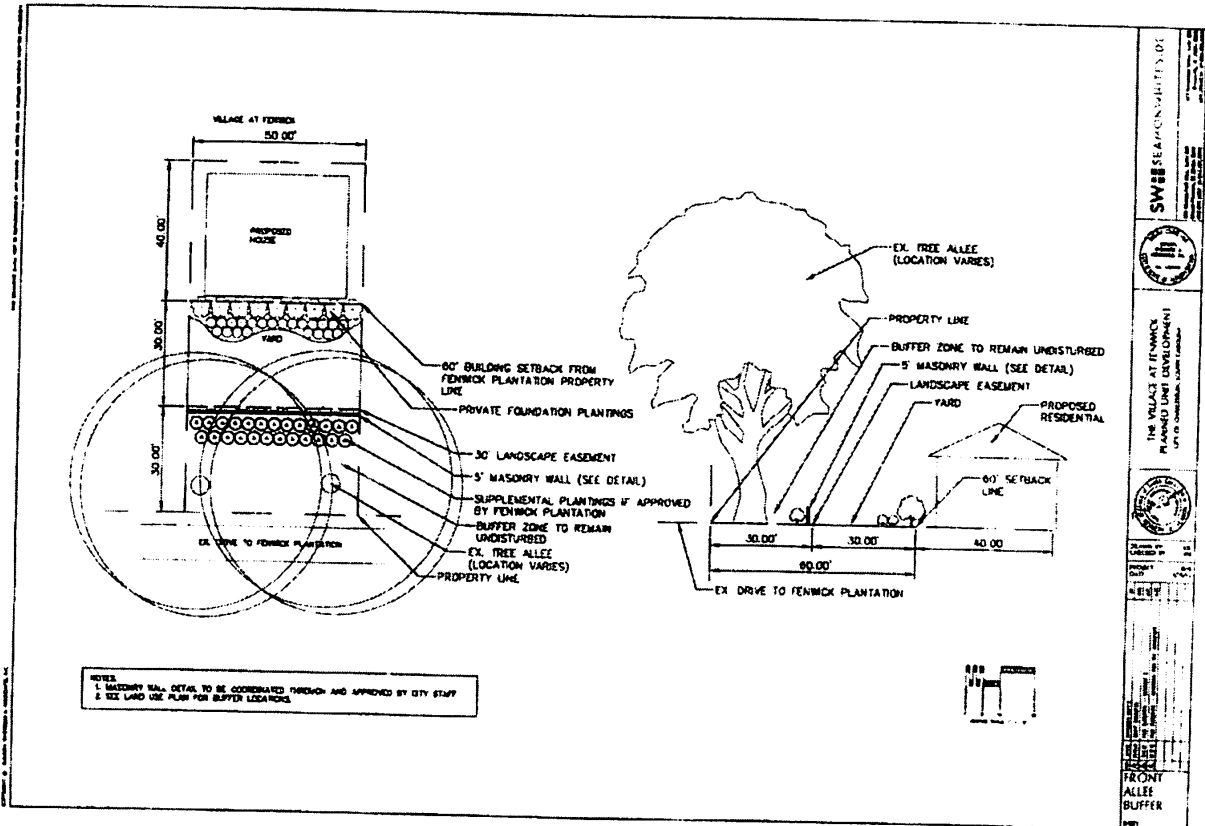
STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

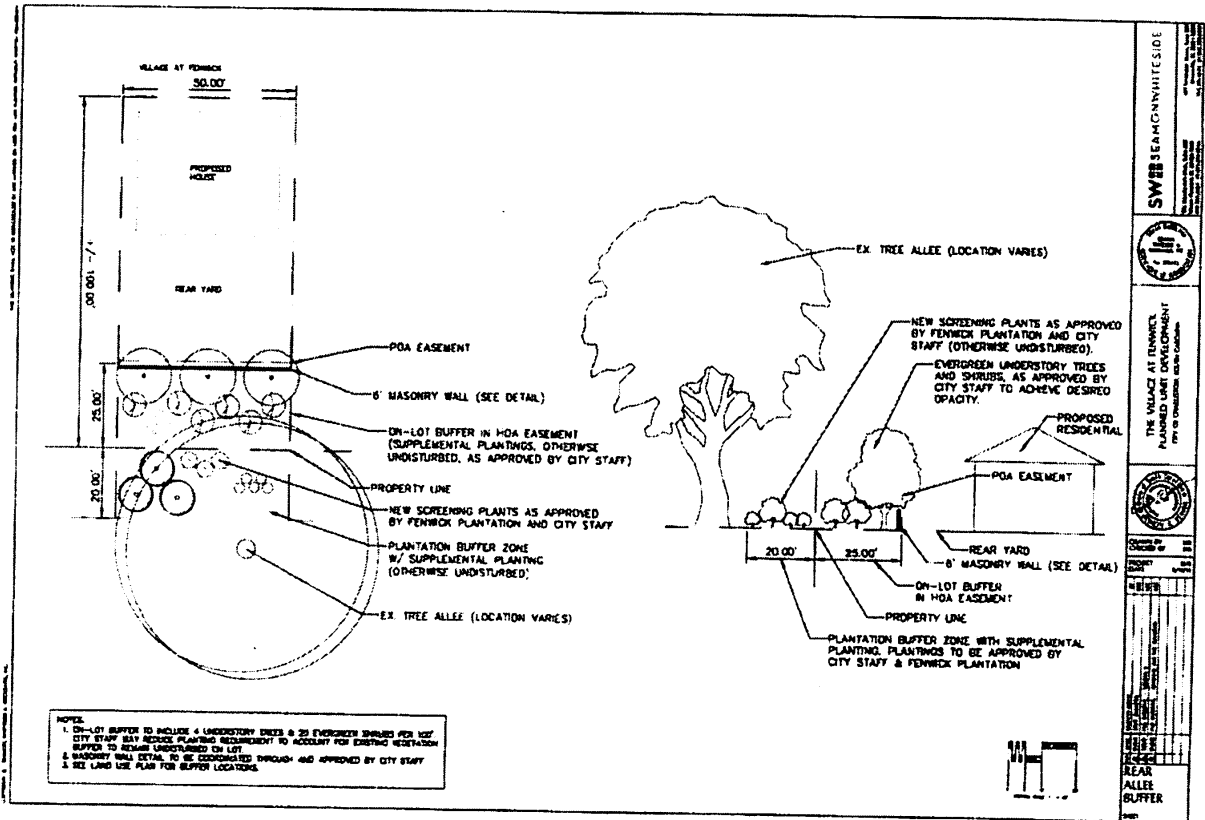
PROBATE

Personally appeared before me Mary Jane Miller who being duly sworn deposes and says that he/she saw Sherman Yarborough, Partner of FHP Realty Company, sign the within Restrictive Covenants and that he/she along with Sandra H. Reed witnessed the execution thereof.

Sworn to me this 28th day of October, 1986.

Sandra H. Reed
Notary Public
My Commission Expires: MY COMMISSION EXPIRES 11-25-1995





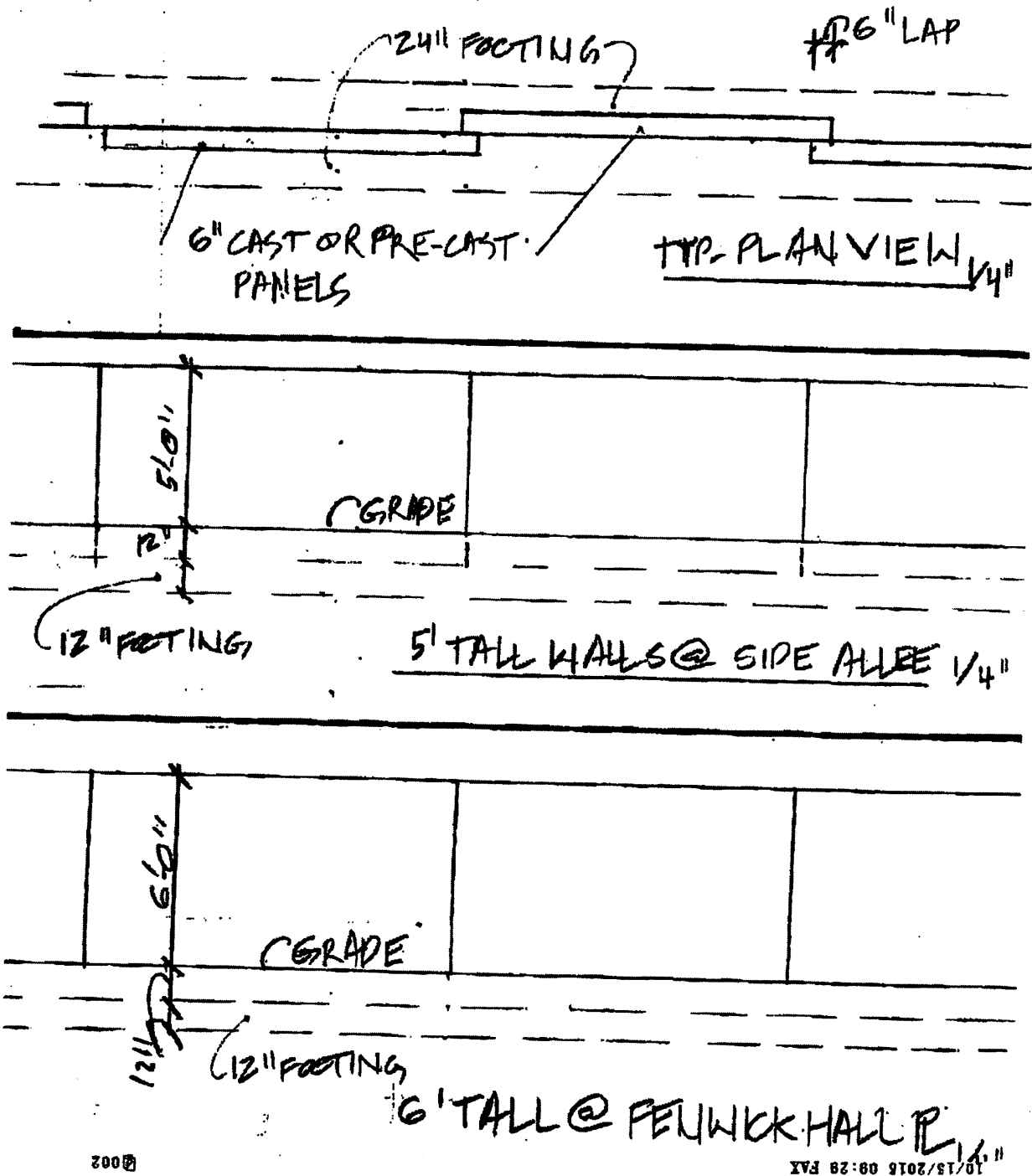
BUFFERS

10/13/15

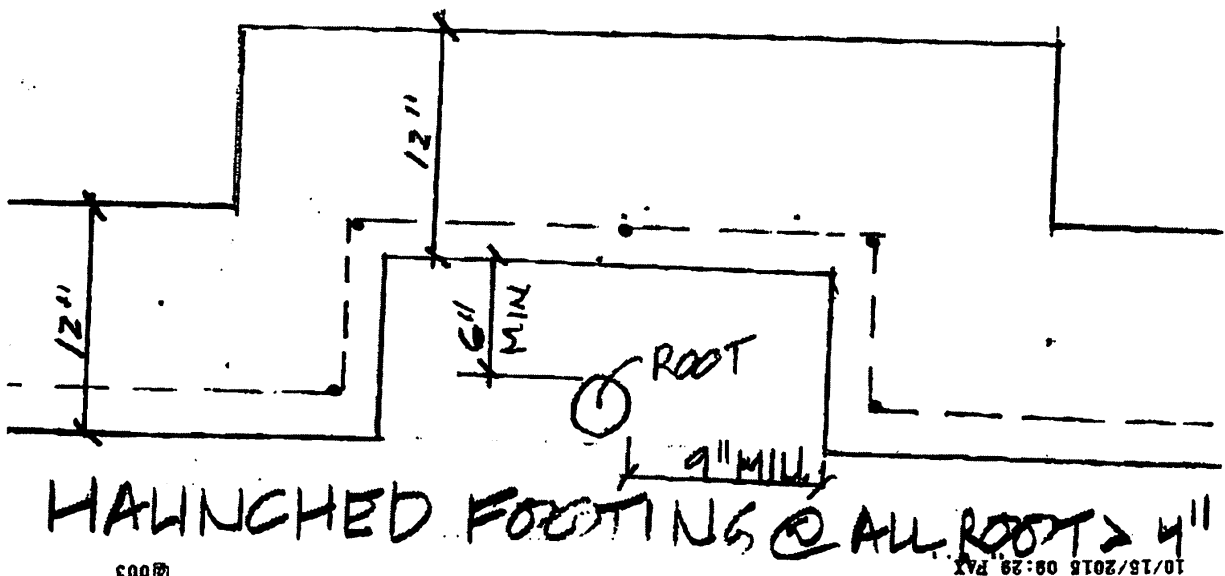
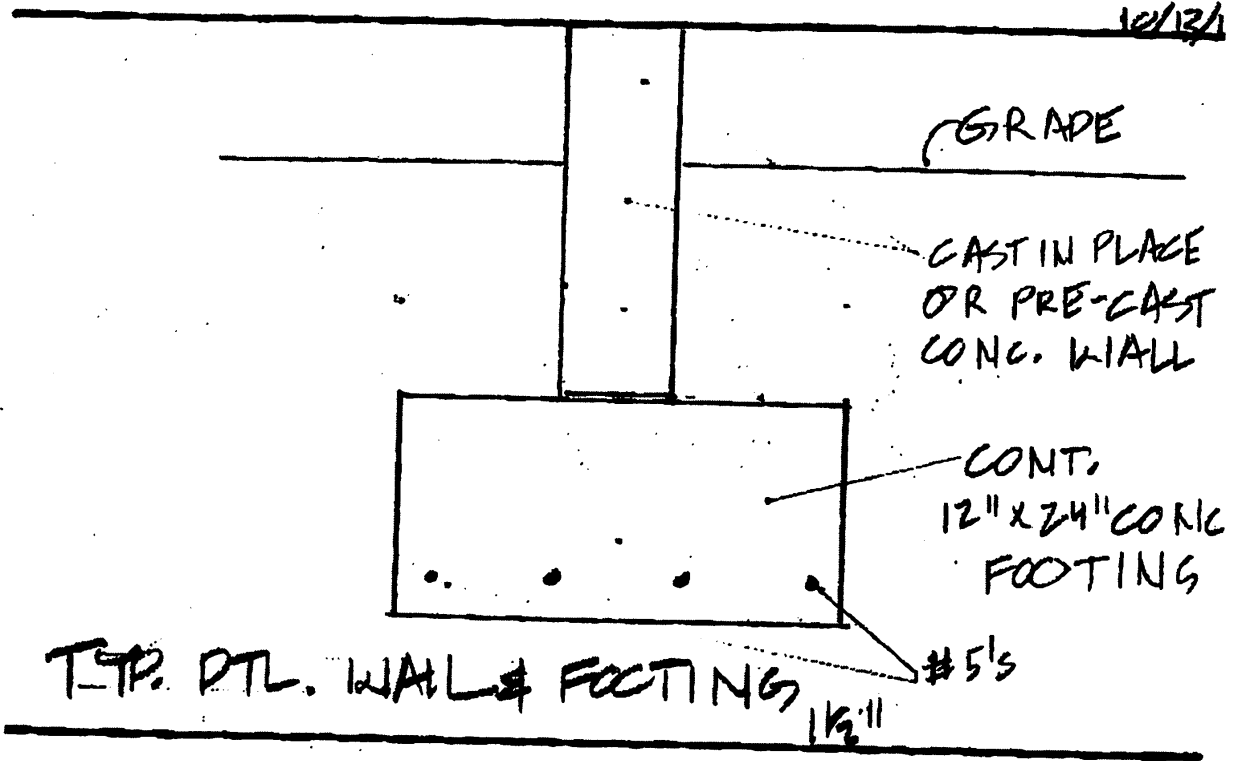
This PUD agreement between Fenwick Hall Planation [John Pernell] and Penny Creek Associates is to state clearly the required buffers along west side of the south Allee of Oaks leading to Maybank Highway and also the buffer along the property line between Fenwick Hall running east to west and the PUD. [The plantation buffer shall run from the new gate noted below and extend to the west property line to the edge of wetlands.]

- Attached drawings "rear and front allee buffers" dated 9/19/15 from SWA,**
- These buffers will become part of the approved PUD, therefore will be restricted via each and every deed.**
- The HOA will have full and complete responsibility to not only maintain the buffers but to enforce them as well.**
- It is acknowledged that buffers are to be installed and landscaping complete prior to any home construction in the PUD neighborhood.**
- Upon installation it shall be the HOA's duty to maintain and enforce the buffers.**

FENWICK VILLAGE P.H.D. 10/13/15 BUFFER COURTYARD WALLS

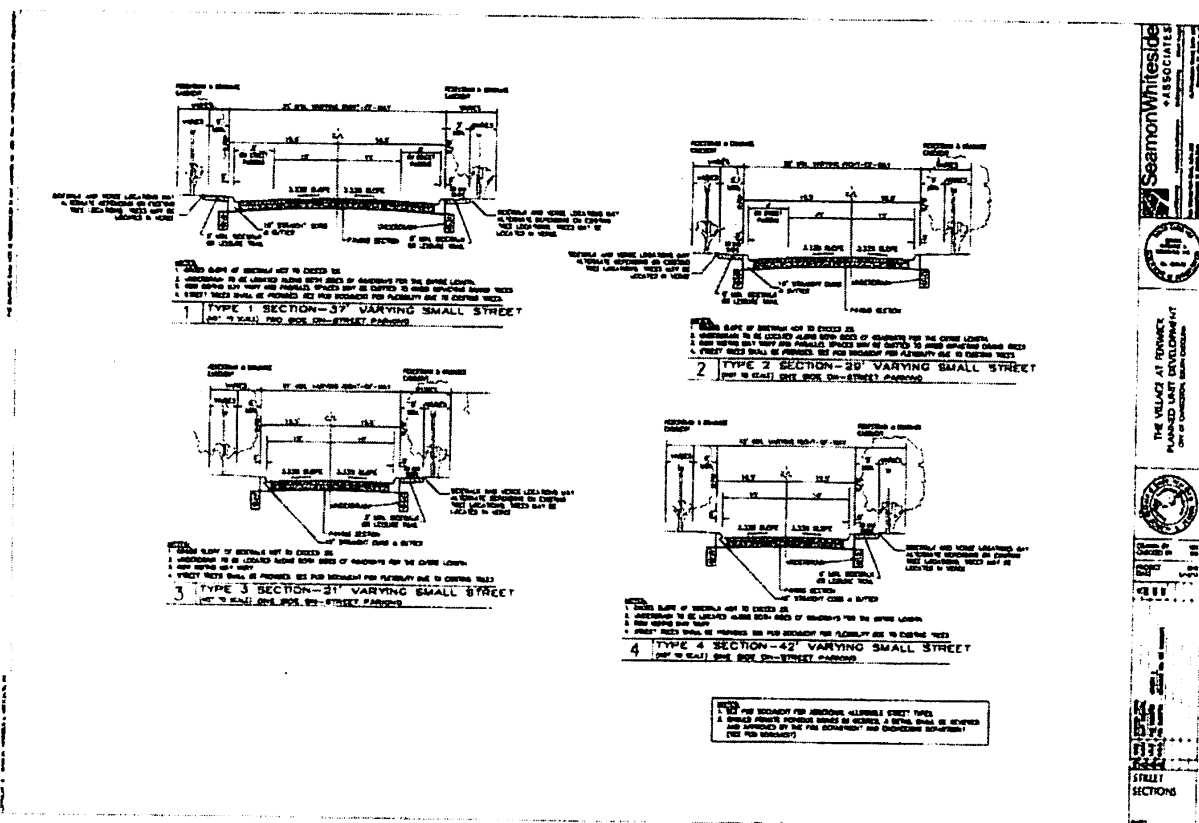


FENWICK VILLAGE F.U.D. BUFFER COURTYARD WALL DETAILS



***Planned Development Guidelines
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APPENDIX G



***Planned Development Guidelines
Village at Fenwick
December 7, 2015***

APPENDIX H

Sec. 54-317. - Required number of off-street parking spaces by land use.

- a. Minimum number of parking spaces required. Table 3.3 indicates off-street parking requirements for land uses. All calculations shall be rounded up to the next whole number. The total parking requirement for mixed uses shall be the sum of the requirement for each use, except that "shopping center" developments, as defined in Table 3.3, shall be exempt from this requirement. Parking spaces required for one use shall not be used to satisfy the parking requirement for another use with the exception of churches, synagogues or other places of worship. Additional parking for bicycles shall be required for certain land uses pursuant to Section 54-320. For the purposes of this Section, "peninsula" shall mean the area of the City of Charleston bounded by the Cooper River to the east, the Ashley River to the west and south, and the Charleston City Limits to the north.
- b. Maximum area of paved parking spaces and aisles allowed for surface parking lots. The maximum number of hard surfaced parking spaces allowed for a shopping center development, as defined in Table 3.3, shall not exceed the total number of spaces required pursuant to this section, increased by 20 percent. All spaces and appurtenant aisles in excess of this 20 percent cap, or areas within the parking lot equivalent in size to the number of excess parking spaces multiplied by 450 square feet, shall be non-hard surfaced utilizing slag, gravel, ROC, grasscrete, or similar porous material or simply a grass field.

TABLE 3.3: OFF-STREET PARKING REQUIREMENTS

USE	NUMBER OF SPACES REQUIRED
RESIDENTIAL:	
- One (1) family detached dwelling	2 per unit
- One (1) family attached dwelling & mobile home	
- Two (2) family dwelling	2 per unit
- Multiple (3 or more) dwellings or dwellings (one or more) within commercial bldgs.	1½ per unit
- Boarding house	1 per 2 bedrooms
- Dormitory, sorority or fraternity house	1 per 2 beds
- Nursing home, homeless shelter, orphanage, sanitarium, boarding home for sheltered care; where above uses are communal living with central dining room	1 per 6 beds
- Special needs housing; housing restricted by funding agencies, public housing agencies, or	1 per 3 dwelling units

	other such organizations, to elderly, handicapped individuals or families, or low income occupants based on current income limits established by the U.S. Department of Housing and Urban Development	
-	Affordable housing	1 per 4 dwelling units
ACCOMMODATIONS:		
-	Accommodations uses, except bed and breakfasts	2 per 3 sleeping units
-	Bed and breakfasts	1 per bed and breakfast unit
-	RV parks	1 per trailer accommodation or "hook-up"
INSTITUTIONAL AND COMMUNITY SERVICE:		
-	High schools (grades 9-12)	1 per each 4 seats in the main assembly hall plus 1 for each classroom
-	Preschool, kindergarten, elementary and junior high schools (grades preschool through 8)	2 spaces for each employee
-	Day care centers	2 per employee
-	Church, synagogue, place of worship (other than on the peninsula)	1 per 4 seats design capacity of the principal place of worship; 80 percent of the required spaces may be provided at an off-site public or private parking lot which is accessory to another use not open or operating during the time of weekend services and within 400 feet of the place of worship. Written permission from owner of lot indicating times parking is to be permitted shall be submitted to zoning administrator prior to approval.

	Church, synagogue, place of worship (on the peninsula)	1 per 8 seats design capacity of the principal of the principal place of worship with off-site parking allowed same as above.
	Funeral home, mortuary, crematorium	1 per 4 seats in sanctuary or 1 per 2 employees whichever is greater.
	Health care facility;	1 per 2 beds
	Hospital, accessory uses	
	Health care facility;	1 per employee plus 1.5 per outpatient treatment room.
	Ambulatory care, clinic, accessory uses	
	Laboratory, research facility	1 per 2 employees
	Place of public assembly auditorium, stadium, community center, theater	1 per 6 seats or patrons (based on maximum occupancy etc. as allowed by Building Code)
	Trade School, College, Institution of higher learning and accessory uses to such facility except dormitory, sorority, and fraternity housing	1 per 100 square feet of total classroom space
	Library	3 per 1000 square feet of interior floor area.
BUSINESS, ENTERTAINMENT AND OFFICE:		
	Art gallery (non-retail), museum (on the peninsula)	1 per 600 square feet (excluding storage)
	Art gallery (non-retail), museum (all other areas)	1 per 400 square feet (excluding storage)
	Automobile repair garage	1 per 2 employees at maximum employment on a single shift plus 1 per 150 square feet of automobile repair space.

-	Office, professional and public buildings bank (on the peninsula)	1 per 500 square feet (excluding halls, stairwells, storage/elevator shafts and bathrooms)
-	Office, professional and public buildings, bank (all other areas)	1 per 240 square feet (excluding halls, stairwells, storage/elevator shafts and bathrooms)
-	Restaurants; sit down establishments serving food and beverage (on the peninsula)	1 per 150 square feet of inside patron use area (excluding bathrooms), and 1 per 200 square feet of outside seating area if available.
-	Restaurants, sit down establishments serving food and beverage (all other areas)	1 per 90 square feet of inside patron use area (excluding bathrooms), and 1 per 200 square feet of outside seating area if available.
-	Restaurant, fast food, take-out and/or express prepared food delivery only	1 per 75 square feet of inside patron use area, plus 1 per square feet of outside seating area if available.
-	Restaurant, drive-thru with no use area	1 per employee at maximum shift inside patron plus 1 per delivery vehicle plus 1 per 250 square feet of outside seating area.
-	Retail and personal service establishments not including food stores (on the peninsula)	1 per 400 square feet of gross floor area.
-	Retail and personal service establishments not including food stores (all other areas)	1 per 200 square feet of gross floor area
-	Gas stations with convenience stores	In addition to one space for each pump facility, one per 400 square feet of floor area
-	Food stores (off-peninsula)	1 per 300 square feet of floor area
-	Food stores (on-peninsula)	1 per 400 square feet of floor area
-	Car wash (full service)	2 per bay/stall plus 1 space per employee
-	Car wash (self serve)	1 per washing module

-	Retail specialty stores selling only furniture, or large appliances, or carpet, or lumber, or or plants, or other specific types of household furnishings	1 per 400 square feet of total floor area excluding storage areas plus 1 per store delivery vehicle.
-	Shopping center - a commercial development which includes one or more retail type uses listed in this table. The total floor area must equal 20,000 square feet or more, in one or more buildings, on one or more lots which are designed and laid out to function as an interrelated development, as evidenced by both shared driveways and parking.	1 per 200 square feet leasable floor area for the first 20,000 total square feet. 1 per 250 square feet for 20,001 to 140,000 total leasable square feet. 1 per 300 square feet for total leasable square feet over 140,001.
-	Mini warehouse, self storage warehouse facility	1 space per 6,000 square feet of net leaseable square footage of warehouse space, or fraction thereof, with up to half the required spaces and associated driveway areas permitted to remain unmarked for trucks and other large vehicles to park and maneuver.
-	Dry cleaners, laundry services	1 per 300 square feet of customer use area plus 2 per 3 employees at maximum employment on a single shift.
-	Private club, fraternal lodges, country clubs	1 per 3 persons allowed by Building Code in the main assembly room or auditorium.
INDUSTRIAL:		
-	Manufacturing, wholesale, or other industrial establishments not catering to retail trade	1 per 2 employees at maximum employment on employment on a single shift plus 1 per company vehicle.
RECREATIONAL:		
-	Recreational facilities (on the peninsula)	1 per 8 patrons based on occupancy limit as determined by Building Code or based on design capacity.

-	Recreational facilities (other areas)	1 per 4 patrons based on occupancy limit as determined by Building Code or based on design capacity.
-	Marinas	1 per 4 dry slips
		1 per 2 wet slips
-	Driving range	1 per tee plus 1 per employee at maximum employment on a single shift.
-	Golf Course	2 per tee plus 1 per employee at maximum employment on a single shift.
-	Bowling alleys	5 per alley
-	Health club	1 per 400 square feet of total floor area.

(Ord. No. 1998-76, § 3, 4-28-98; Ord. No. 2002-92, § 7, 8-13-02; Ord. No. 2004-70, § 1, 7-20-04; Ord. No. 2006-428, § 9, 9-26-06; Ord. No. 2007-214, § 1, 11-20-07; Ord. No. 2014-130, §§ 2-4, 10-14-14)

***Planned Development Guidelines
Village at Fenwick
December 7, 2015***

APPENDIX I



October 16, 2013

Anna Lewis
Permitting Coordinator
501 Wando Park Boulevard, Suite 200
Mount Pleasant, South Carolina 29464

Re: TMS# 346-00-00-004, 008, 076, 258 & 260 / Charleston County, SC

Dear Mrs. Lewis:

This letter will verify that South Carolina Electric and Gas Company has sufficient electrical and natural gas capacity to serve the referenced tracts above. Electric and gas service will be provided in accordance with SCE&G's General Terms and Conditions, other documents on file with the South Carolina Public Service Commission, and the Company's standard operating policies and procedures.

Please contact me at 843-576-8447 if you have any questions or if I may be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven M. Morillo".

Steven M. Morillo
Customer Service Engineering



October 16, 2013

Village at Fenwick Plantation
Charleston, SC 29455

RE: TMS: 4346-00-00-004, 008, 076, 258 & 260

To Whom It May Concern:

This letter is to confirm that Comcast Cable is the franchised video service provider for the new location of Village at Fenwick Plantation Charleston, SC. Upon execution of a property-specific agreement, the terms of which will be negotiated separately, Comcast can and will extend its cable plant to the property so that the residents there will have access to Xfinity Video, High-Speed Data, and Digital Voice services.

Depending on cost to extend the plant, the owner may be asked to bear some of the cost of cable plant construction.

Should you have any additional questions, please contact me at 843-266-3094.

Best Regards,

Andy Mcilwain
Business Development Account Executive
Comcast of South Carolina, Inc.
4400 Bell Oaks Drive
North Charleston, SC 29405
(843) 266-3094 office
Andrews_mcilwain@comcast.com



To:
Cc:
Bcc:
Subject: Fw: TMS #346-00-00-004, 008, 076, 258 & 260

From: RALPH WATKINS <ralph_watkins@charleston.k12.sc.us>
To: Anna S Lewis <ALewis@seamonwhiteside.com>,
Cc: Bill Lewis <william_lewis@charleston.k12.sc.us>
Date: 10/16/2013 08:32 AM
Subject: Re: TMS #346-00-00-004, 008, 076, 258 & 260

The site is in the Angel Oak ES, Haut Gap Middle, and St John's High School attendance zone. Seats will be made available to residents of the project. We will send a formal letter as soon as possible. Do you have a rough idea of when the site will be fully built out?
V/r, rw

--
Ralph Watkins, PE
Facilities Planner
Capital Programs Department
Charleston County School District
3999 Bridge View Drive
North Charleston, SC 29405
Ph. 843-566-1983
Fax 843-746-1374
Excellence is Our Standard

APPENDIX J

(Full Document on File with City of Charleston)

Isolate 3

Investigators identified Isolate 3 between site 38CH1716 and 38CH1864 in an area of mixed pine and hardwood forest (see Figures 1, 2, and 25). Investigators excavated eight shovel tests at 15 meter intervals, two in each cardinal direction (see Figure 25). Soils in the area consisted of grayish brown sand 0-55 cm bs underlain by yellow sand 55-75 cm bs. Investigators recovered one small slipware sherd 30-50 cm bs. No features were identified on the surface or in any of the shovel tests.

Project Summary

The project tract lies near landscape features that are contributing elements to the Fenwick Hall NRHP property. Development of the project tract may affect Fenwick Hall by visually detracting from the property's historic landscape. Specifically, the landscape features that may be affected are the double oak allee from River Road to the house, the single oak allee from SC Route 700 to the house, and the views from the house and surrounding grounds. We recommend the developers consult with the SHPO to ensure that building placement, height, and materials are designed so that there is no visual effect to these approaches to and from the house and grounds.

Archaeologists identified seven archaeological sites (38CH1716, 38CH1861-38CH1866) and three isolated finds (Isolates 1-3) on the project tract. We recommend 38CH1716, 38CH1861-38CH1866, and Isolates 1-3 not eligible for the NRHP. Additional management of these sites and isolated finds is not warranted. However, if at any time during construction activities on the tract cultural features or suspected cultural features, such as dense artifact or shell clusters, articulated bricks, or human remains are encountered work should stop immediately and the SHPO should be notified. If suspected human remains are encountered the Charleston County Coroner also should be notified immediately.

***Planned Development Guidelines
Village at Fenwick
December 7, 2015***

APPENDIX K

(Full Document on File with City of Charleston)

CONCLUSIONS

Maybank Highway (SC 700) is a two lane state highway that runs in a northeast-southwest direction across Johns Island in the metropolitan area of Charleston, South Carolina. The traffic congestion and travel times along Maybank Highway have increased in recent years and are expected to worsen as the area continues to grow.

The goal of this study was to examine existing (2014) and future year (2040) traffic conditions along this portion of the Maybank Highway corridor and to examine different alternatives to alleviate the westbound queuing on Maybank Highway westbound onto Johns Island.

The future year operational analysis was performed for Existing, Future No-Build and Future Build scenarios with and without I-526 extension. The Build scenario includes three phases of construction. Phase 1 is the widening of Maybank Highway. Phase 2 is the construction of the Northern Pitchfork Road. Phase 3 is the construction of the Southern Pitchfork Road. The key features of these improvements are:

- Widening Maybank Highway to three lanes from the existing merge point approximately 1,650 feet west of Old Maybank Highway to River Road. This will allow for two inbound lanes from the bridge over the Stono River and one outbound lane;
- Providing dedicated left turn lanes at key intersections, in this case, River Road, in order to separate left turning traffic to allow through traffic to proceed more efficiently.
- Providing a new parallel two lane roadway to the north of Maybank Highway beginning at the intersection of Maybank Highway and Fenwick Hall Allee and terminating at a point on River Road. This roadway is referred to as the Northern Pitchfork Road. A new roundabout is proposed on the Northern Pitchfork Road adjacent to the existing Fenwick Hall Allee.
- Providing a new parallel two lane roadway to the south of Maybank Highway beginning at the end of the bridge over the Stono River and terminating at a point on the River Road. This roadway is referred to as the Southern Pitchfork Road.

In addition to the traffic operational analyses, microsimulation modeling was conducted to examine the westbound queuing of Maybank Highway and methods that it could be addressed. Four different sites for a westbound lane drop were examined:

- Existing Condition/Future No Build Condition: Approximately 1,650 feet west of Old Maybank Highway.
- Build Condition: River Road – This would call for widening Maybank Highway to three lanes east of River Road. The scenario was examined both with and without the Pitchfork Roads.
- Merge Option 1: 400 feet west of Fenwick Hall Allee – This would call for widening Maybank Highway to three lanes from the current merge point to 400 feet west of Fenwick Hall Allee. The scenario was examined both with and without the Pitchfork Roads.

Maybank Highway Traffic Analysis Report

- Merge Option 2: Approximately the end of the curve travelling westbound on Maybank Highway after Old Maybank Highway – This would extend the current westbound two-lane section approximately 670 feet further west from its current lane drop location. This scenario was examined without the Pitchfork Roads.

Since the construction completion date of the proposed I-526 extension is uncertain at this moment, the 2040 analyses were performed for two separate scenarios: with and without the I-526 extension.

Existing Condition

The existing peak hour operational analysis results show that the five study intersections currently operate at a variety of levels of service in both the AM and PM peak hours. In the morning, both the signalized River Road intersection and the unsignalized Fenwick Hall Allee operate at LOS E or LOS F. In the afternoon peak hour, only Fenwick Hall Allee operates at LOS F. LOS F on an unsignalized intersection may overstate the actual delay at that intersection, as the model can only measure *likely* gaps based on the volumes carrying through the intersection, while in reality, drivers usually make it into the traffic stream by accepting shorter gaps than the model would take into account, or by opposing drivers providing a gap for the turning driver to use. In any case, a LOS E or F on an unsignalized approach must be treated carefully.

2040 No-Build

Without the I-526 Extension

The 2040 No-Build analysis results show that the operating conditions at all the intersections will deteriorate compared to the existing afternoon peak hour condition if the roadway network within the study area remained unchanged with no improvements implemented. In particular, River Road at Maybank Highway will drop from a LOS C to a LOS E in 2040 without the I-526 extension.

With the I-526 Extension

The 2040 No-Build analysis results show that the operating condition at all the intersections will deteriorate compared to the existing afternoon peak hour condition if the roadway network within the study area remained unchanged with no improvements implemented other than the extension of I-526. With the I-526 extension, all studied intersections will operate at LOS F except for Maybank Highway at Old Maybank which will operate at LOS A. While the existing unsignalized intersection of Fenwick Hall Allee will be LOS F in this scenario, it is improved over the No Build without I-526 Extension.

Of particular note are the delays at the intersection of Maybank Highway and River Road in the "with I-526" condition. The I-526 construction will reroute traffic from Maybank Highway east of River Road to I-526, but traffic will still access Johns Island by moving south on River Road and turning right onto Maybank Highway. Large delays will be caused by the queuing for this movement. Similarly, because of the connections between I-526 and River Road, traffic along

Maybank Highway Traffic Analysis Report

River Road will increase with the I-526 extension, reducing gaps in River Road traffic and increasing delay to the traffic on the Stardust Way and Cane Slash Road approaches.

2040 Build Concept

Build Without the I-526 Extension

The 2040 Build results without the I-526 extension show that the operating conditions at Maybank Highway and River Road will improve to LOS B. The operating condition at all other currently existing intersections will remain as-is or improve except for Cane Slash Road. This unsignalized intersection will deteriorate to LOS E. While this is a failing LOS, the volumes accessing this two-way-stop controlled intersection are low and do not affect the network as a whole.

Four additional traffic signals will likely be needed to control traffic for this condition. Two signals along Maybank Highway at the Northern Pitchfork Road and Southern Pitchfork Road intersections and the other two signals will likely be required along River Road at the Northern Pitchfork Road and the Southern Pitchfork Road intersections. All the signalized study intersections will operate at an acceptable LOS D or better with the exception of Maybank Highway at Northern Pitchfork Road, which with the projected traffic will operate at LOS F due to the volume of left-turning vehicles projected to use Northern Pitchfork Road to access Maybank Highway instead of using the Maybank Highway/River Road intersection.

Build With the I-526 Extension

The 2040 Build results with I-526 extension show that the operating conditions at the existing signalized intersections at Maybank Highway and River Road will improve compared to 2040 No-Build with I-526. Maybank Highway at River Road will remain a failing LOS E compared to the No Build LOS F due to the traffic being diverted away from Maybank Highway to River Road via the I-526 extension connectors and the Pitchfork Roadways, however the average vehicular delay will fall by 81 seconds.

Two additional traffic signals are will likely be needed to control traffic. Traffic signals will likely be needed at the Northern Pitchfork Road intersections with Maybank Highway and River Road. Both these intersections will operate at LOS B or A under signal control.

Build (Without Pitchfork) Without the I-526 Extension

The 2040 Build without Pitchfork results without the I-526 extension show that the operating conditions at the existing two signalized intersections along Maybank Highway remain constant compared to the 2040 No-Build. To show the differences between the 2040 No Build and the 2040 Build (without pitchfork), further analysis was conducted using microsimulation and documented later in this report.

Build (Without Pitchfork) With the I-526 Extension

The 2040 Build without Pitchfork results with I-526 extension show that the operating conditions at the existing signalized intersections at Maybank Highway and River Road will remain at LOS F. The traffic that uses Maybank Highway in the Without I-526 scenario is rerouted to River

Maybank Highway Traffic Analysis Report

Road and still causes this intersection to be over capacity. All other intersections remain the same as the No Build condition.

Addressing the Westbound Queuing

The results of the microsimulation modeling show the Build condition reduce the queue significantly either entirely, or to about halfway between River Road and Fenwick Hall Allee, depending on which measure of effectiveness you are evaluating (Average or Visual, respectively). The Build without Pitchfork will reduce the queuing to approximately just past Fenwick Hall Allee.

In the case where I-526 was constructed, sufficient traffic would be diverted from the westbound Maybank Highway approach to River Road to make the queuing situation moot.

SUMMARY OF FINDINGS

It was found that, in comparing the 2040 No-Build and Build results:

- The Build condition (without I-526) will improve all existing signalized intersections.
- The Build condition (without I-526) will significantly improve the westbound queuing.
- The Build without Pitchfork Roads (without I-526) will also reduce westbound queues, with the intersection traffic operations remaining similar to, if slightly better, than the No-Build Condition.
- In reviewing the Build scenario at the signalized intersection of the Northern Pitchfork Road (Fenwick Hall Allee) and Maybank Highway it is noted that the intersection will operate at LOS F without the construction of I-526. This is due to the volume of traffic projected to use this intersection after the Pitchfork Roads are constructed.
- The microsimulation queuing analysis demonstrates that of the locations for a westbound drop lane, the condition with the best improvements is Build, dropping the lane at River Road. Second best is Build without Pitchfork Roads.
- The analysis shows that constructing the Build condition would greatly increase the capacity of the immediate vicinity by presenting alternate routes to access River Road and reducing the queuing on Maybank Highway.

EXHIBIT B

[ORDINANCE NO. 2018-164 (AMENDED GUIDELINES)]



Ratification
Number 2018-164

AN ORDINANCE

TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON, BY AMENDING ORDINANCE NO. 2016-005, ESTABLISHING THE VILLAGE AT FENWICK PLANNED UNIT DEVELOPMENT GUIDELINES, SO THAT PROPERTY OWNED BY 1776, LLC, LOCATED ON JOHNS ISLAND, IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA, CONSISTING OF (1) APPROXIMATELY 12.645 ACRES ON RIVER ROAD (TMS NO. 346-00-00-004); (2) APPROXIMATELY 22.91 ACRES ON RIVER ROAD AND MAYBANK HIGHWAY (TMS NO. 346-00-00-076); (3) APPROXIMATELY 4.947 ACRES (A PORTION OF TMS NO. 346-00-00-258); AND (4) APPROXIMATELY 4.389 ACRES (A PORTION OF TMS NO. 346-00-00-259) (COUNCIL DISTRICT 5) BE SUBJECT TO THE AMENDED AND RESTATED PLANNED UNIT DEVELOPMENT GUIDELINES FOR THE VILLAGE AT FENWICK.

BE IT ORDERED AND ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

WHEREAS, on January 12, 2016, City Council adopted Ordinance No. 2016-005, rezoning the above-referenced properties (collectively, the "Property") and others to Planned Unit Development (PUD) classification and adopting The Village at Fenwick Planned Unit Development Guidelines (the "Guidelines") as the development plan for the Property;

WHEREAS, the planned "Northern Pitchfork Road," expected to significantly relieve traffic congestion on Johns Island, will lie within the boundaries of the properties subject to the Guidelines, with a majority of the North Pitchfork Road and its supporting facilities, including but not limited to drainage facilities, lying within the boundaries of the Property;

WHEREAS, 1776, LLC, the owner of the Property ("Owner"), has agreed to donate fee simple title to the portions of the Property necessary to construct the North Pitchfork Road and supporting facilities to the City; and

WHEREAS, the Owner's donation has resulted in changed conditions with respect to the planned development of the Property under the Guidelines, and City Council finds it necessary to amend the Guidelines to take into account these changed conditions.

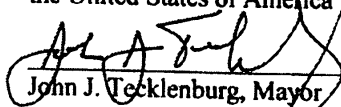
Section 1. City Council hereby amends Ordinance No. 2016-005 by substituting the Amended and Restated Planned Development Guidelines for the Village at Fenwick (the "Amended

Guidelines”), a copy of which is attached hereto and incorporated herein by reference as Exhibit 1, for the Guidelines as the development plan for the Property only.

Section 2. The Property is more particularly described on Exhibit 2, attached hereto and incorporated herein by reference.

Section 3. This Ordinance shall become effective upon ratification, such that the Amended Guidelines shall be vested upon ratification; provided, however, the Guidelines shall govern the development of the Property through January 12, 2019, after which the Amended Guidelines shall govern the development of the Property.

Ratified in City Council this 18th day of
December in the Year of Our Lord, 2018,
and in the 243rd Year of the Independence of
the United States of America


John J. Tecklenburg, Mayor

ATTEST:

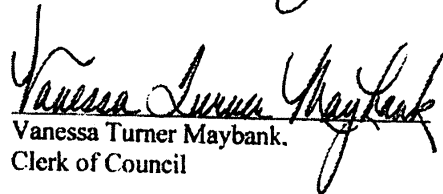

Vanessa Turner Maybank,
Clerk of Council

EXHIBIT 1

[AMENDED GUIDELINES]

*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

AMENDED AND RESTATED PLANNED UNIT DEVELOPMENT GUIDELINES

The Village at Fenwick

Charleston, South Carolina

ID# 150928-RiverRd-1

[NEW DATE]



*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

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PLANNED UNIT DEVELOPMENT

*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

**MASTER PLAN REQUIREMENTS
CITY OF CHARLESTON**

RELATIONSHIP TO THE CITY OF CHARLESTON ZONING ORDINANCE

This Amended and Restated Development Guidelines and Land Use Plan for the Village at Fenwick Planned Unit Development (hereinafter "PUD") supersedes and replaces the original Development Guidelines and Land Use Plan for the Village at Fenwick Planned Unit Development. The PUD, as amended and restated herein and attached hereto and made a part hereof, is part of the PUD conditional use Master Plan application submitted in accordance with the Zoning Ordinance of the City of Charleston, Article 2, Part 7 Sections 54-250, et seq. The Zoning Ordinance of the City of Charleston is incorporated herein by reference, except as amended herein.

No person shall erect or alter any building, structure, or sign on any tract of land or use any tract of land within the Village at Fenwick PUD except in conformance with these guidelines and regulations. Unless modified herein, definitions of terms used in the Village at Fenwick PUD Development Guidelines shall follow definitions listed in the Zoning Ordinance of the City of Charleston, as amended from time to time. Administration and enforcement of the adopted Village at Fenwick PUD Master Plan shall follow Article 9 of the Zoning Ordinance of the City of Charleston.

The amended and restated Village at Fenwick PUD Master Plan was approved by the City of Charleston on

_____, Ordinance Number _____.

*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

I. Statement of Purpose, Intent, Objectives

This Planned Unit Development is intended to meet the criteria listed in Section 54-254 in the City of Charleston zoning code. The PUD allows flexibility in neighborhood design to create an urban node for Johns Island while providing open space, protecting the site's grand trees, and being sensitive to the context of Johns Island. This document is consistent with the City's adopted comprehensive plan, the Century V Plan, the Johns Island Community Plan, and the Johns Island Community Greenway Plan.

By creating additional open space including a linear park, that runs parallel to Maybank Highway, and a leisure trail system, this development better achieves the goals of adopted plans or other zoning district regulations. A linear park within the conservation buffer area along Maybank Highway will incorporate a leisure trail, seating, ornamental plantings, and a historical design feature that will illustrate the history of Johns Island. A leisure trail system will wind through the entire development, creating an emphasis on pedestrian connectivity, and downplaying the role of the automobile.

This development is also consistent with the City's adopted master road plan. By committing to design the development around existing grand trees, allowing pervious road types, generating ample open space, and respecting the adjacent Fenwick Hall through buffering and architectural regulations, this PUD will protect and preserve natural and cultural resources better than standard zoning district regulations. The planned development aims to celebrate the natural characteristic of the Johns Island gateway while transitioning to the future "Four Corners" intersection at Maybank Highway and River Road.

Further, this planned development has been coded for compatibility with density and building height restrictions according to the City's vision for the location, as set forth by the Comprehensive Plan and Century V Plan. The planned development will be congruent with the density and maximum building height of the adjacent multistory apartments. To encourage a variety of roof lines through the PUD development, building heights shall be defined as number of stories. It is also compatible with the existing network of public streets and the proposed Pitchfork Road that is planned to go through the property. Additionally, this development is accommodated by existing and planned public facilities including roads, sewer, water, schools, parks, open space and recreational amenities. Coordination letters are included within this document. Finally, the POA will adequately provide for the continued maintenance of common areas, open space, and other public facilities not dedicated to the City of Charleston.

Upon City approval, these Planned Unit Development Guidelines shall apply to the entire 58.88 acres of this tract. Any zoning details not outlined in these guidelines will adhere to the current City of Charleston zoning guidelines and will default to the GB or DR-9 land use regulations, based on the parcels' zoning prior to this PUD. A Conceptual Land Use Plan and Conceptual Open Space Plan have been included within the appendices of this report.

This PUD is a zoning document only and does not include a Concept Plan component. Drainage, Utility and Fire Protection Plans meeting the City's requirements shall be provided with the future required Concept Plan submittal.

The Village at Fenwick PUD property includes a vehicular spur of the Pitchfork Traffic Plan set forth by the City of Charleston, with the goal of dispersing traffic, while creating walkable streets with on-street parking, to ultimately create a gathering place for Johns Island.

The vision of the Pitchfork Traffic Plan is to create a Johns Island inspired village center that is respectful of the grand live oaks and surrounding natural character of Johns Island. The goal of this PUD is to provide flexible zoning regulations in order to create a dense, walkable mixed-use gathering place along Maybank Highway and the Pitchfork spur that is sensitive to its surrounding landscape and history.

II. City Land Use & Zoning Designations

A. Century V Plan Recommendations:

*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

According to the City of Charleston's Century V Plan, this site's recommended future Land Use designations are Urban, Neighborhood Center, Conservation, and Suburban.

<u>Future Land Use</u>	<u>Acreage</u>	<u>Allowable Density*</u>	<u>Allowable Units</u>
Urban	9.52 AC upland	12 DU/AC	114
Neighborhood Center	35.51 AC upland	20 DU/AC	710
Conserved/Natural Area*	3.31 AC upland 6.23 AC wetland	0 DU/AC	0
Suburban	4.31 AC upland	8 DU/AC	34
TOTAL	52.65 AC upland 6.23 AC wetland	16.29 DU/AC	858

* Density calculated using upland acreage.

B. Current Base Zoning and Site Tabulation:

The Village at Fenwick PUD property, totaling 58.88 acres, is comprised of TMS numbered 346-00-00-004, TMS 346-00-00-076, TMS 346-00-00-260, 346-00-00-008, a portion of 346-00-00-258, a portion of 346-00-00-259, and TMS 346-00-00-301 as found on the tax maps included in the appendices of this report. The properties are zoned GB, GO, C, and DR-9 in the City of Charleston. The Village at Fenwick PUD property is surrounded by a mix of properties with zoning designations of RR-1, DR-1, GB, PUD and GO.

Existing TMS Acreage Chart:

<u>TMS #</u>	<u>Existing ACREAGE</u>	<u>Existing Zoning(s)</u>
346-00-00-004	12.64 AC	DR-9
346-00-00-076	22.93 AC	GB, GO, C
346-00-00-260	12.25 AC	DR-9
346-00-00-258*	4.82 AC	GO
346-00-00-259*	4.38 AC	GO, C
346-00-00-008	0.55 AC	GB
346-00-00-301	1.31 AC	C
TOTAL	58.88 AC	

* Portion of total parcel acreage

DR-9 – Diverse Residential; GB – General Business; GO – General Office; C – Conservation

Existing Zoning Chart:

<u>Ex. Zoning</u>	<u>Total Acreage</u>	<u>Density</u>	<u>Dwelling Units</u>

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DR-9	24.89 AC	9.0 units/AC	224 units
GB	14.81 AC	26.4 units/AC	385 units
GO	16.19 AC	--	--
C	3.19 AC	--	--
TOTAL	58.88 AC		609 units

III. PUD Land Uses and Development Regulations

A. Land Uses

The proposed development will contain residential, commercial, civic and open space land uses in a horizontal or vertical mixed use format. The PUD will categorize the intensity of development into two designations; Village at Fenwick Mixed Use Residential (VFMR) and Village at Fenwick Mixed Use Commercial (VFMC). In order to preserve the Maybank Highway natural corridor, the PUD will also consider Conservation (C) as part of the development regulation.

1. Site Tabulation:

LAND USE	TOTAL	Projected WETLAND	Projected HIGH	Existing Pond	Maximum D.U.*	Maximum NET DENSITY
VFMR**	27.30 Ac.	1.11 Ac.	26.19 Ac.		216	9.00 D.U./Upland Ac.
VFMC**	27.51 Ac.	5.12 Ac.	22.39 Ac.	0.55 Ac.	393	17.55 D.U./Upland Ac.
C**	4.07 Ac.	0.00 Ac.	4.07 Ac.		N/A	N/A
TOTAL	58.88 Ac.	6.23 Ac.	52.65 Ac.	0.55 Ac.	609	11.57 D.U./Upland Ac.

*Accessory dwelling units shall not count toward allowable density limit (see III, A, 2 for definition)

**See VII for Open Space Requirements

Notwithstanding the foregoing Site Tabulation, for any PUD parcel that is reduced in size because a portion of such parcel is conveyed for the Pitchfork Road, such PUD parcel or parcels shall each be credited with additional D.U. for the acreage conveyed. Based on the current engineered Pitchfork Road and related drainage system plans, the Maximum Net Density per Upland Acre specified in the Site Tabulation, above, for the parcels that are reduced in size shall be increased by the following D.U.:

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Parcel	Proposed Acreage Conveyed		Initial Maximum Net Density		Additional D.U. on Remaining High Acres
12.64 VFMR Parcel	0.877	X	9.00	=	7.893
12.25 VFMR Parcel	0.044	X	9.00	=	0.396
22.93 VFMC Parcel	3.541	X	17.55	=	62.144

2. **Village at Fenwick Mixed Use Residential (VFMR) designated area(s)** will allow primarily residential and limited commercial and mixed use. The following uses shall be permitted:

1. Single-family detached dwelling (SFD)
2. Two-family dwellings
3. Single-family attached dwellings
4. Nursing homes
5. Accessory Dwelling Units (ADU). Accessory Dwelling Unit shall be defined as for a secondary house or apartment with its own kitchen, living area and separate entrance that shares the building lot of a larger, primary house. The ADU may be attached to an existing house or garage, or it may be built as a stand-alone unit, but it usually uses the water and energy connections of the primary house and may be rented separately.
6. Detached accessory buildings for Office Space for Home Occupations
7. Live Work Units
8. Neighborhood commercial as defined in the City of Charleston CT zoning designation, except that commercial hours of operation shall be limited to 7 a.m. to 8 p.m.
9. Gazebos, shelters, play equipment, and other site furnishings shall be allowed in open spaces falling outside of wetlands and buffer areas.
10. Model homes, sales centers, and associated uses shall be allowed in all areas.
11. Parks, trails, open space, etc.

3. **Village at Fenwick Mixed Use Commercial (VFMC) designated area(s)** will allow moderate intensity mixed use, residential, and commercial. The following uses shall be permitted:

1. Uses permitted in the GB district, except that commercial hours of operation shall be limited to 7 a.m. to 12 a.m.
2. Hotel, Motel, or Bed and Breakfast
3. Multi-family / Apartment
4. Uses permitted in the VFMR

Note: VFMC areas will be under purview of the Design Review Board (DRB).

B. Development Regulations

All lots must conform to dimensional, density, and zoning requirements as found in the following chart:

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	VFMR	VFMC
Min. Front Yd. Setback (ft.)*	5	0
Min. Side Yard Setback (ft.) from Property**	5	5
Min. Rear Yard Setback (ft.) from Property***	10	0
Min. Street Side Yard Setback (ft.) from Property Line	10	10
Build to Zone at Right of Ways *	5' – 15'	0'-10'
Accessory Building front setback toward rear from primary façade	10'	10'
Accessory Building side and rear setback	3'	3'
Maximum Ht.	3 stories	4 stories
Building Coverage (Max. %)		
Commercial & MF	100%	100%
Single Family Attached	80%	85%
Single Family Detached	90%	95%
Minimum Lot Area (square feet)		
Commercial	None	None
Single Family Attached	1280	None
Single Family Detached	2500	None
Minimum Building Frontage along Right of Ways	None	65%.

* Setbacks and build-to lines shall be measured from the Right of Way line or innermost easement line. Flexibility for trees may be granted.

**Unless common wall construction

***Modified setbacks apply to properties adjacent to Fenwick. See Buffers in Section 4.

1. Development standards for Village at Fenwick Mixed-Use Residential (VFMR)

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- a) Architectural design must address and respond to the architectural elements present in Fenwick and must address the Fenwick side entry drive. This shall be enforced by the Architectural Review Board (ARB).
 - b) A maximum of 50 accessory dwelling units (ADUs) shall be allowed, with the number per lot not to exceed 1 ADU. ADUs shall not count toward the allowable density calculation. ADUs shall be limited to 800 s.f of habitable area, excluding garage space. See section III, A, 2 for ADU definition. ADU approval and monitoring shall be the responsibility of the future Village at Fenwick DRB.
 - c) Compact lots will be encouraged.
 - d) The minimum lot frontage for lots with vehicular access to an alley may be 15'. This will allow flexibility for unique lot configurations to work around existing trees and common spaces.
 - e) The maximum block size will be 800' x 800'. Blocks size shall be defined as the distance between Right of Ways, primary vehicular drives with angled or parallel parking, and / or Pedestrian Access Easements with leisure trails. Perimeter lots (lots with property lines on the PUD boundary) will be excluded from this requirement.
 - f) Only 25% of the total lots on each street may have front loaded attached garages.
- 2. Development standards for Village at Fenwick Mixed-Use Commercial (VFMC)**
- a) Drive-thru lanes shall be permitted but should be oriented away from the nearest existing ROW.
 - b) There shall be no lot size requirements.
 - c) Corner lots shall meet City of Charleston vision clearance triangle requirements.
 - d) Steps, open stairways, open porches, eaves, roof awnings and decks may extend up to 5' into street front setback, but in no instance can they extend into the right of way.
 - e) Individual commercial building footprints shall be limited to 30,000 square ft. max. footprint area.
 - f) Block Size shall be a maximum of 600' x 600'. Blocks size shall be defined as the distance between Right of Ways, primary vehicular drives with parking, and / or Pedestrian Access Easements with leisure trails.
 - g) Building Frontage shall be defined as the width of a building along a street, including parallel walls or fences, but excluding roof overhang and canopies, and any ornamental features that cause a protrusion from the walls of the building. Building frontage shall be measured as the combined width of the building faces that front the street and lie within setback limits or build to zones. When the width of the building varies vertically, building frontage shall be measured at ground level.
 - h) Build-to Zone shall be defined as an area of a lot designated for placement of a building façade along a street, located parallel to a front property line. The Build-to Zone defines an area in which the locations of building fronts can vary within a specified range. Grand Tree Drip Zones and formal Open Spaces may be excluded from frontage calculations.
- 3. Off-Street Parking**
- a) The proposed development shall refer to the Peninsula parking requirements outlined in the City of Charleston zoning ordinance and will be held to the "on peninsula" parking quantities.
 - b) Platted private drives may be unpaved and include a minimum 20' long paved apron at street connections and paved areas to meet ADA compliance. Unpaved drives must be reviewed and approved by City of Charleston Staff.
 - c) For any single-family and private properties, all driveways may be unpaved.
 - d) Two way parking drive isles may be 22' and parking space dimensions may be 9'x18'. If no vehicle overhang is provided, parking spaces shall be the standard 9'x18.5'.

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- e) Multi-level Parking Garages shall not be allowed.
- f) Parking areas and private drive isles may be paved, gravel, sand shell or of another pervious material.
- g) There shall be no parking between building fronts and Right of Ways in the VFMC areas.

See Appendix H for the City of Charleston Lower Peninsula Parking Standards.

4. Buffers

- a) Interior buffers between internal uses shall not be required.
- b) Wetland buffers may be required by the Army Corps of Engineers or SCDHEC Coastal Zone Consistency and shall be provided per their requirements.
- c) Wetland buffers will be outside of platted lots and will be owned and maintained by the Property Owner's Association (POA).
- d) Wetland buffers shall be per U.S. Army Corps of Engineers or SCDHEC Coastal Zone Consistency requirements. These buffer requirements supersede any City of Charleston requirements. Paved or non-paved walking trails, 5' wide or less will be allowed within the wetland buffers subject to U.S. Army Corps of Engineers' or SCDHEC Coastal Zone Consistency approval. If paths are not permitted by U.S. Army Corps of Engineers, Open Space may be required elsewhere such that the minimum requirement is met.
- e) A required, Type F, 50' buffer will be provided along Maybank Highway and will be maintained by the POA. This buffer will maintain required plant materials or may remain undisturbed. A portion of the proposed Linear Park will be located within and adjacent and run parallel to the Maybank Highway buffer. The Type F, 50' buffer may be reduced to no less than 36' in areas in which the widening of Maybank Highway has encroached into the proposed buffer area.
- f) Buffers and modified setbacks will be required along the Fenwick Allee and Rear property line. See Appendixes for buffer exhibits. Buffers will be within POA easements and will be maintained by the POA. Within the buffers, supplemental plantings may be allowed, otherwise buffers are to be left undisturbed. A masonry wall (or other wall or fence type screening element, as approved by the City of Charleston, SHPO, and any other applicable regulatory body) will be allowed in the buffer along with opportunities for plant screening. The approval of the owner of Fenwick Plantation will also be required to change or modify the type of buffer required along Fenwick Hall Plantation as set forth in appendix F.
- g) Supplementary to the Fenwick buffers, houses will be required to be subtle neutral tones, to minimize visual impact to the plantation. Color swatches shall be submitted for review and approval to the future Village at Fenwick ARB.
- h) Buffers are shown on the Open Space Plan and in the appendices of this document. With the exception of wetland buffers, no other buffers other than those indicated on the open space plan and described here within shall be required.

IV. Surveys

Plats and a Preliminary Wetland Survey have been included in the appendixes of this document. Tree surveys and wetland surveys will be required prior to any future Concept Plan or Preliminary Plat submittal.

V. Traffic Study

A traffic study has been previously completed for Pitchfork Road improvements and can be found on file with the City of Charleston. An executive Summary has been included in the appendix K of this document. A Time Travel Analysis was prepared for Charleston County and concluded that the

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construction of the Pitchfork Road will save approximately 3 minutes of travel time for vehicles on Maybank Highway. The report, without exhibits, has been attached as appendix L. The complete Travel Time Analysis, inclusive of exhibits, is on file with the City of Charleston.

VI. Streets, Sidewalks, and Trails

- A. Streets within the Village at Fenwick PUD shall allow Neighborhood District street classifications and right of way design standards (Sections 54-820, - 821[a,d,h,i,m,n,u,p,q,r,s,t,u], -822,-823 of the City of Charleston Zoning Ordinance) as well as the new street sections found in Appendix G. Also, the developer may present modified versions of these street sections to be reviewed and approved through the TRC and Concept Plan process.
- B. Unpaved private streets, such as gravel, sand shell, or plantation mix shall be allowed if approved by City of Charleston Staff. Should an unpaved private road be desired, a street section shall be submitted to the City of Charleston Staff for review and approval. A parallel sidewalk or trail along unpaved streets may be allowed to satisfy ADA accessibility.
- C. Streets, public or private, may be studied with digitally simulated emergency and service vehicle modeling to ensure proper service and access. Exhibits shall be provided to city of Charleston as requested by City Staff.
- D. Sidewalks, parks, playgrounds, trails, pier/docks, pedestrian bridges, bicycle paths and any non-paved streets or roads that don't have sidewalks shall be ADA Compliant or maintain a proper ADA route throughout the development.
- E. Should public streets be used they will be paved and designed per City of Charleston standards and maintained by the City of Charleston if accepted. However, curb may be omitted to allow for bio-swales and other low impact development practices, pending review and acceptance by the City of Charleston staff.
- F. No new driveway or street connection to Maybank Highway shall be permitted from the planned development except for the planned 'Pitchfork Road', subject to the approval of the City of Charleston. No new street or driveway connections from the planned development to River Road shall be permitted except for the planned 'Pitchfork Road' connection. The existing vehicular connection from TMS 346-00-00-008 to Maybank Highway may remain. Approval of this PUD shall remove and replace the language found in restrictive covenant #4 pertaining to parcel 346-00-00-076 found in (Bk Y166, Pg 522; Bk V142, Pg 434) with the language found in this paragraph. See Appendix E for Restrictive Covenants. Vehicular connections to the Village at Fenwick shall be provided along the new Pitchfork Road. There shall be no more than one (1) curb cut in each side of the Pitchfork Road per every five hundred (500') feet of roadway unless otherwise agreed to, in writing, by the Zoning Administrator for the City of Charleston, who may require the approval of the City Traffic and Transportation Department and the property owners representing the majority of the PUD acreage.
- G. Due to significant tree resources, and an anticipated light imprint approach, cul-de-sac and hammerhead turn-arounds shall be allowed.
- H. Gated streets shall not be permitted.
- I. Pervious pavers, if approved by the City of Charleston Public Services Department, may be utilized in Public or Private Right-of-Ways (ROWs) where streets or sidewalks encroach into grand tree drip zones. Non-standard materials will require DRC approval.
- J. Temporary Right of Way cul-de-sac and / or temporary private cul-de-sacs shall be a minimum of 96' diameter measured at the ROW or easement line.
- K. The neighborhood will provide a continuous connected leisure trail system linking units and common space areas. Leisure trails shall be a minimum of 5' in width (see open space section), composed of concrete asphalt, pavers, or pervious material, and must meet ADA requirements. The leisure trail will connect useable park spaces where practical. The Open Space plan layout of the leisure trail is highly conceptual and will be subject to modification due to final site layouts. Leisure trails will be allowed to replace required sidewalks, such that pedestrian connectivity and ADA accessibility is maintained throughout the design. All walks outside of the ROW will be maintained by the POA. The requirement for trail and / or sidewalk shall not be dependent on Street Type.

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- L. The minimum sight triangle for stop conditions at street intersections shall follow SCDOT ARMS manual standards.
- M. Lights shall not be required on private streets to minimize environmental impacts.
- N. Staff may approve reducing or eliminating Sidewalks within ROWs due to grand or significant tree conflicts, such that a proper ADA route is maintained.
- O. Prior to the construction/completion of the Northern Pitchfork Road, to further the development of the VFMC designated parcels in excess of five (5) acres, the City of Charleston will cooperate with such property owner with respect to the issuance of a disturbance permit the construction of improvements, so long as the application complies with applicable land development regulations. The City of Charleston will also cooperate with such property owner to permit the western end of the entrance island on Fenwick Allee to be temporarily removed so that access can be obtained to the 22.92 acre parcel in the location shown on the Open Space Plan, provided the entrance island is restored to its pre-existing condition prior to or upon the completion of construction on such parcel.

VII. Drainage

- A. All drainage design should be in accordance to the City of Charleston Stormwater Design Standard Manual except that swales may be utilized on private drives and may vary from the Stormwater Manual regulations in order to accommodate light imprint practices. Swales will be maintained by the POA. Also, to facilitate the vision and objectives of this PUD to preserve the natural characteristics of historic Fenwick Hall and its surroundings and to protect grand live oaks, consideration should be given to preserving the existing topography of the PUD parcels to the extent practicable by utilizing engineered drainage systems where possible to minimize the use of fill for drainage purposes. Any proposed deviations from the Stormwater Design Manual will be coordinated through and require approval by City Staff.
- B. Streets within private ROWs and parking and drainage systems within private commercial areas shall be maintained by the POA. The city of Charleston shall maintain storm drainage systems that convey runoff from Public Land or Public Rights of Way.
- C. The site drainage system must meet all applicable State, and Federal storm water regulations. The proposed public roadway construction must comply with the requirements of the City's Zoning Ordinance Section 54-821, Table 8.1 or Table 8-2.1 (Neighborhood District), or be per the roadway standards or sections included within or referenced by this document.

VIII. Signs

- A. One master sign may occur on Maybank Highway immediately west of Fenwick Hall Allee and be subject to permitting. One master sign may occur at the connection to River Road and be subject to permitting. Master sign heights shall be limited to no more than 10' in height above proposed grades and no more than 40 square feet of sign face per side. No backlit signs are allowed along Maybank Highway and River Road. The master entrance subdivision signs will be designed according to Article 4 of the City of Charleston zoning ordinance and may occur within buffers.
- B. A single secondary entrance sign per tract may be constructed at connection points to the Pitchfork Road or adjacent properties. Secondary entrance signs will be a maximum of 5' high with a maximum of 20s.f. of sign face per side.
- C. All signs and associated landscaping will be maintained by the POA. All master signage will be submitted for site plan and encroachment permit review. All other signs will be in accordance with the City of Charleston standards.
- D. There will be directional and traffic signage located throughout the development.

IX. Amenity Areas and Open Space

- A. Required Open Space Chart:

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	<u>OVERALL OPEN SPACE* (20% of Site)</u>	<u>USEABLE OPEN SPACE* (25% of Overall Open Space)</u>
Minimum	11.78 Min.	2.95 Ac.
Projected	17.13 Ac.	5.01 Ac.

B. Open Space Definitions and Requirements:

1. Open space is calculated as 20% of the gross acreage. The proposed Open Space Plan meets or exceeds the required open space.
2. Usable open space is calculated as 25% of the required open space. The proposed Open Space Plan meets or exceeds the required usable open space.
3. Useable open space improvements must be shown on Construction Documents and installed prior to final plat.
4. The size and location of open space and useable open space shown within the Open Space Plan included in this document are subject to adjustment; however, these spaces will remain in excess of the required minimums.
5. Open space definitions are as follows:

Open Space. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space shall not include streets, drives, off-street parking and loading areas, area so located or of such size or shape to have no substantial aesthetic or recreational value and any area within residential lots.

Useable Open Space. Open space areas of high ground developed to provide for active recreational uses. Examples of possible types of usable open spaces could include paths, play fields, benches, walking trails, picnic areas and ponds with seating areas.
6. A connected system of open space leisure trails, playfields or community gardens, and a linear park along Maybank Highway will be provided as useable open space. All trails, walkways and paths shall be ADA Compliant.
 - a) **Linear Park:** The linear park will be located parallel to the Maybank Highway buffer, will count towards the useable open space requirement, and will include a 5' min leisure trail, benches or other seating opportunities, art, or an educational element that illustrates the history of Johns Island and Fenwick. The linear park may also include a wall, wooden decorative fence, or water feature. The linear park will be owned and maintained by the POA but, will be open to the public.
 - b) **Leisure Trails:** Leisure trails will be allowed to wind through buffers, between lots, or along ROWs to connect the site through a pedestrian network. The leisure trails will be a minimum of 5' wide, located within open space easements that are maintained by the POA, and easement areas may count toward the useable open space requirements. Leisure trail areas may include benches, swings, or seating areas. This network is conceptually shown on the open space plan in the appendices of this document, though actual routing is subject to final neighborhood design.

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- c) **Community Garden or Play Fields:** A 1.37 acre community garden, playfield, or combination thereof will be improved below the SCE&G power line easement adjacent to the linear park. The open space area will include leisure trails that link to the overall trail system. The design of this area will be subject to SCEG approvals.

See Appendix D for Conceptual Open Space Plan.

X. Tree Summary

A. Existing Trees

1. The site is currently heavily wooded with a high concentration of grand live oaks. The vision of this project is to create a highly sensitive site plan effort that creates a meaningful gathering place and urban node that is respectful to the grand trees and natural surroundings.
2. A licensed independent arborist will be consulted to inspect the conditions and grade rating of existing grand trees. Every effort will be made to preserve A and B rated grand trees while other quality significant trees will be carefully evaluated and considered, while balancing the goal of creating a node for Johns Island.
3. Existing grand trees and their drip zones near the allée of oaks leading to Fenwick Hall and the Fenwick Hall property shall have proper and specific attention through construction and future planning as to avoid disrupting the natural aesthetic of the site.
4. Tree surveys will be provided prior to conceptual plan submittal.
5. All grand and protected trees shall be governed by Part 6 of the City of Charleston's Tree Protection Ordinance. Should the removal of a grand tree be deemed necessary, the Board of Zoning Appeals process shall be utilized.

B. Street Trees

1. Canopy Street trees will be required in the Public or Private right of way. Street trees will not count towards tree mitigation for tree variances. A Street Tree Plan will be required to be submitted for review and approval by the City Parks Department. The Street Tree Plan for the Northern Pitchfork will be the responsibility of the City of Charleston.
2. Existing significant or grand trees with that fall within 12' of a proposed right of way shall count towards the street tree requirement, subject to Parks Department approval.
3. Due to the high amount of anticipated significant and grand trees, City staff shall have the right to grant flexibility on size, species, spacing and location of required street trees in order to minimize the impact to existing trees.
4. Native tree species are encouraged to preserve the existing natural characteristic throughout the site.

XI. Additional Development Criteria

Sales and/or construction trailers and associated parking areas are allowed on POA areas or designated lots prior to the recording of plats. Site plan review and issuance of clearing and grading permits are required prior to the issuance of the required building permit.

In all cases where sidewalks, tree plantings, or mitigation plantings are required prior to the approval of a final plat for the property, sidewalks and tree mitigation shall be installed, inspected and deemed acceptable by the City. Sidewalks and tree plantings shall be contingent upon approval of encroachment permit and construction plans by the City. These items will be submitted for review to Public Services, Engineering and Parks and Recreation Departments.

Water will be served by Saint Johns Water Company

Sewer will be served by Charleston Water Systems for this project.

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Gas will be served by SCE&G.

XII. Subdivision

Commercial and single family lots will be subdivided through subsequent plat submittals. The commercial parcel may be subdivided into multiple lots, provided that the subdivision meets the development criteria set forth in the standards of this PUD. The Village at Fenwick PUD will be a multi-phased development. A phasing plan will be submitted with the Concept Plan submittal and included / adjusted as necessary with subsequent Preliminary Plat submittals. Subdivision may occur off of platted private drives or pedestrian access easements, such that acceptable emergency access is provided.

XIII. Cultural Resources

A cultural resources study for the property was completed in 2001. A copy of the full cultural resources report is on-file with the City of Charleston. A summary of the report can be found within the appendices of this document.

XIV. Appendices

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**APPENDIX A
(ON FILE WITH ZONING
ADMINISTRATOR)**

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**APPENDIX A
(ON FILE WITH ZONING
ADMINISTRATOR)**

*Planned Development Guidelines
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**APPENDIX B
(ON FILE WITH ZONING
ADMINISTRATOR)**

*Planned Development Guidelines
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APPENDIX C

**(ON FILE WITH ZONING
ADMINISTRATOR)**

*Planned Development Guidelines
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APPENDIX D
(ON FILE WITH ZONING
ADMINISTRATOR)

*Planned Development Guidelines
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APPENDIX E

**(ON FILE WITH ZONING
ADMINISTRATOR)**

*Planned Development Guidelines
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**APPENDIX F
(ON FILE WITH ZONING
ADMINISTRATOR)**

*Planned Development Guidelines
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APPENDIX G

**(ON FILE WITH ZONING
ADMINISTRATOR)**

*Planned Development Guidelines
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**APPENDIX H
(ON FILE WITH ZONING
ADMINISTRATOR)**

*Planned Development Guidelines
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APPENDIX I
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ADMINISTRATOR)**

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APPENDIX J

(Full Document on File with City of Charleston)

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APPENDIX K

(Full Document on File with City of Charleston)

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APPENDIX L

(Full Document on File with City of Charleston)

EXHIBIT 2
[PROPERTIES]

LEGAL DESCRIPTION

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "Tract 'B-2' 42.7 Acres," on a plat entitled, "SUBDIVISION OF PROPERTY IN THE NAME OF F-H-P REALTY LOCATED ON JOHNS ISLAND, CHARLESTON COUNTY, S.C.," by Forrest G. Calvert, RLS, dated September 17, 1979, and recorded in the RMC Office for Charleston County, South Carolina (hereinafter the "RMC Office") in Plat Book AO at Page 74, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "FHP Realty Tract 'A' 5.503 Acres" on a plat entitled, "PLAT SHOWING THE ABANDONMENT OF PROPERTY LINES FOR TMS NO. 346-00-00-12 AND TMS NO. 346-00-00-011, AND THE SUBSEQUENT SUBDIVISION OF TMS NO. 346-00-00-007 INTO TRACT 'A' CONTAINING 5.503 ACRES AND TRACT 'B' CONTAINING 7.497 ACRES OWNED BY FHP REALTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," by Hoffman Lester Associates, Inc., dated September 24, 1997, and recorded January 20, 1998, in the aforesaid RMC Office in Plat Book EC at Page 263.

The aforesaid Tract B-2 and Tract A are also more particularly shown on that certain plat entitled, "PLAT SHOWING PROPERTY LINE BETWEEN TMS NO. 346-00-00-004, TRACT B-2 (CONTAINING 42.49 ACRES) AND TMS NO. 346-00-00-007, RESIDUAL TRACT B (CONTAINING 5.50 ACRES) TO FORM TRACT B-2 (CONTAINING 47.99 ACRES), OWNED BY FHP REALTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by Hoffman Lester and Associates, Inc., dated April 7, 2000, and recorded as Exhibit "____" [sic: "C"] to that certain deed of conveyance from FHP Realty Company, a Partnership, to Penny Creek Associates, L.L.C., dated August 7, 2000, and recorded in the RMC Office for Charleston County on August 8, 2000, in Book O-352 at Page 691.

LESS AND EXCEPTING: ALL that certain streets, roads, drives and cul-de-sacs situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being shown and designated as "FENWICK HALL ALLEÉ R/W VARIES" on a plat entitled, "PLAT DEDICATING FENWICK HALL ALLEÉ, VARIABLE RIGHT-OF-WAY (TMS NO 346-00-00-078 TRACT C) TO THE USE OF THE PUBLIC CONTAINING 0.71 ACRES LOCATED IN

THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by Hoffman Lester Associates, Inc., dated August 27, 2001, and recorded November 1, 2001, in the RMC Office for Charleston County, South Carolina in Plat Book EF at Page 157. Said streets, roads, drives and cul-de-sacs butting and bounding, measuring and containing, and having such courses and distances as shown are shown on said plat, it being the intent of this legal description to convey the entire right-of-way. Reference being had to the aforesaid plat for a more full and complete description, being all of the said dimensions, a little more or a little less. Together with an exclusive easement for drainage and maintenance purposes over all drainage easement shown on the said plat.

LESS AND EXCEPTING: ALL that certain streets, roads, drives and cul-de-sacs situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being shown and designated as "EXTENSION OF FENWICK HALL ALLEÉ" on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT C-1 (TMS NO. 346-00-00-077), TRACT B-2-1 (TMS NO. 346-00-00-004), AND TRACT B-2-2 (TMS NO. 346-00-00-076) TO CREATE AN EXTENSION OF FENWICK HALL ALLEÉ (CONTAINING 0.272 ACRES) AND CREATING RESIDUAL TRACT C-1 (TMS NO. 346-00-00-077) CONTAINING 15.454 ACRES, RESIDUAL TRACT B-2-1 (TMS NO. 346-00-00-004) CONTAINING 24.895 ACRES, AND RESIDUAL TRACT B-2-2 (TMS NO. 346-00-00-076) CONTAINING 22.856 ACRES PREPARED FOR PENNY CREEK ASSOCIATES, LLC AND FENWICK TARRAGON APARTMENTS, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by HLA, Inc., dated December 6, 2004, and recorded March 25, 2005, in the RMC Office for Charleston County, South Carolina in Plat Book EH at Page 817. Said streets, roads, drives and cul-de-sacs butting and bounding, measuring and containing, and having such courses and distances as shown are shown on said plat, it being the intent of this legal description to convey the entire right-of-way. Reference being had to the aforesaid plat for a more full and complete description, being all of the said dimensions, a little more or a little less. Together with an exclusive easement for drainage and maintenance purposes over all drainage easement shown on the said plat.

LESS AND EXCEPTING: ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, measuring and containing 12.250 acres as more fully shown and designated as "PROPOSED TRACT B-2-3" on that plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the RMC

Office for Charleston County, South Carolina, said parcel having such location, buttings, boundings, courses and distances as by references to said plat more fully appear.

THE ABOVE REFERENCED PROPERTY IS ALSO KNOWN AS

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as Tract B-2-1, said to contain 11.645 total acres, as shown on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the R.M.C. Office for Charleston County (herein after "R.M.C. Office"); said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

AND

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as Tract B-2-2, said to contain 22.91 acres total, more or less, as shown on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the R.M.C. Office for Charleston County (herein after "R.M.C. Office"); said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

TMS Nos.: 346-00-00-004 and 346-00-00-076

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "LOT 2A The Preserve Fenwick Plantation Owner: 1776, LLC, 215,476 SF, 4.947 AC"; on a plat entitled, "A SUBDIVISION PLAT OF TMS #346-00-00-258 INTO LOT 2 (4.101 AC) AND LOT 2A (4.947 AC) OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" by Seamon Whiteside and Associates Surveying, LLC, dated September 6, 2018, and recorded in the ROD Office for Charleston County, South Carolina in Plat Book

___ at Page ___, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

TMS #346-00-00-258

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "LOT 3 The Preserve Fenwick Plantation TMS 346-00-00-259 Owner: 1776, LLC, 191,188.51 SF, 4.389 AC", on a plat entitled, "A SUBDIVISION PLAT OF TMS #346-00-00-259 INTO LOT 3 (4.389 AC) AND LOT 3A (4.347 AC) OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" by Seamon Whiteside and Associates Surveying, LLC, dated September 8, 2018, and recorded in the ROD Office for Charleston County, South Carolina in Plat Book ___ at Page ___, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

TMS #346-00-00-259

EXHIBIT C

[ORDINANCE NO. 2018-169 (DEVELOPMENT AGREEMENT)]



Ratification
Number 2018-169

AN ORDINANCE

AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY OF CHARLESTON, A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND 1776, LLC GOVERNING THE DEVELOPMENT OF PROPERTIES OWNED BY 1776, LLC, LOCATED ON JOHNS ISLAND, IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA, CONSISTING OF THE FOLLOWING TRACTS: (1) APPROXIMATELY 12.645 ACRES ON RIVER ROAD, DESIGNATED AS TMS NO. 346-00-00-004; (2) APPROXIMATELY 22.91 ACRES ON RIVER ROAD AND MAYBANK HIGHWAY, DESIGNATED AS TMS NO. 346-00-00-076; (3) APPROXIMATELY 4.947 ACRES, BEING A PORTION OF TMS NO. 346-00-00-258; AND (4) APPROXIMATELY 4.389 ACRES, BEING A PORTION OF TMS NO. 346-00-00-259.

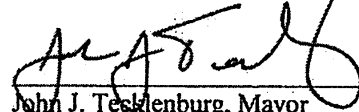
BE IT ORDERED AND ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute on behalf of the City of Charleston (the "City"), and without further action by City Council, the Development Agreement attached hereto and incorporated herein by reference as Exhibit 1, between the City and 1776, LLC, governing the development of properties owned by 1776, LLC, located on Johns Island, in the City of Charleston, Charleston County, South Carolina, consisting of the following tracts: (1) approximately 12.645 acres on River Road, designated as TMS No. 346-00-00-004; (2) approximately 22.91 acres on River Road and Maybank Highway, designated as TMS No. 346-00-00-076; (3) approximately 4.947 acres, being a portion of TMS No. 346-00-00-258; and approximately 4.389 acres, being a portion of TMS No. 346-00-00-259.

Section 2. Pursuant to section 6-31-60(A)(7) and section 6-31-70 of the South Carolina Code, City Council finds that the development permitted or proposed in the Development Agreement is consistent with the City's comprehensive plan and land development regulations.

Section 3. This Ordinance shall become effective upon ratification.

Ratified in City Council this 18th day of
December in the Year of Our Lord, 2018,
and in the 243rd Year of the Independence of
the United States of America


John J. Teskenburg, Mayor

ATTEST:

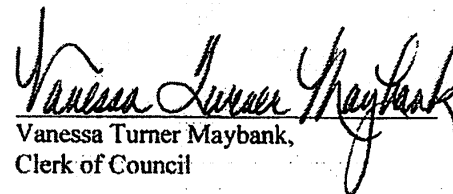

Vanessa Turner Maybank,
Clerk of Council

EXHIBIT D

[LEGAL DESCRIPTION]

LEGAL DESCRIPTION

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "Tract 'B-2' 42.7 Acres," on a plat entitled, "SUBDIVISION OF PROPERTY IN THE NAME OF F-H-P REALTY LOCATED ON JOHNS ISLAND, CHARLESTON COUNTY, S.C.," by Forrest G. Calvert, RLS, dated September 17, 1979, and recorded in the RMC Office for Charleston County, South Carolina (hereinafter the "RMC Office") in Plat Book AO at Page 74, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "FHP Realty Tract 'A' 5.503 Acres" on a plat entitled, "PLAT SHOWING THE ABANDONMENT OF PROPERTY LINES FOR TMS NO. 346-00-00-12 AND TMS NO. 346-00-00-011, AND THE SUBSEQUENT SUBDIVISION OF TMS NO. 346-00-00-007 INTO TRACT 'A' CONTAINING 5.503 ACRES AND TRACT 'B' CONTAINING 7.497 ACRES OWNED BY FHP REALTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," by Hoffman Lester Associates, Inc., dated September 24, 1997, and recorded January 20, 1998, in the aforesaid RMC Office in Plat Book EC at Page 263.

The aforesaid Tract B-2 and Tract A are also more particularly shown on that certain plat entitled, "PLAT SHOWING PROPERTY LINE BETWEEN TMS NO. 346-00-00-004, TRACT B-2 (CONTAINING 42.49 ACRES) AND TMS NO. 346-00-00-007, RESIDUAL TRACT B (CONTAINING 5.50 ACRES) TO FORM TRACT B-2 (CONTAINING 47.99 ACRES), OWNED BY FHP REALTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by Hoffman Lester and Associates, Inc., dated April 7, 2000, and recorded as Exhibit "___" [sic: "C"] to that certain deed of conveyance from FHP Realty Company, a Partnership, to Penny Creek Associates, L.L.C., dated August 7, 2000, and recorded in the RMC Office for Charleston County on August 8, 2000, in Book O-352 at Page 691.

LESS AND EXCEPTING: ALL that certain streets, roads, drives and cul-de-sacs situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being shown and designated as "FENWICK HALL ALLEÉ R/W VARIES" on a plat entitled, "PLAT DEDICATING FENWICK HALL ALLEÉ, VARIABLE RIGHT-OF-WAY (TMS NO 346-00-00-078 TRACT C) TO THE USE OF THE PUBLIC CONTAINING 0.71 ACRES LOCATED IN

THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by Hoffman Lester Associates, Inc., dated August 27, 2001, and recorded November 1, 2001, in the RMC Office for Charleston County, South Carolina in Plat Book EF at Page 157. Said streets, roads, drives and cul-de-sacs butting and bounding, measuring and containing, and having such courses and distances as shown are shown on said plat, it being the intent of this legal description to convey the entire right-of-way. Reference being had to the aforesaid plat for a more full and complete description, being all of the said dimensions, a little more or a little less. Together with an exclusive easement for drainage and maintenance purposes over all drainage easement shown on the said plat.

LESS AND EXCEPTING: ALL that certain streets, roads, drives and cul-de-sacs situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being shown and designated as "EXTENSION OF FENWICK HALL ALLEÉ" on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT C-1 (TMS NO. 346-00-00-077), TRACT B-2-1 (TMS NO. 346-00-00-004), AND TRACT B-2-2 (TMS NO. 346-00-00-076) TO CREATE AN EXTENSION OF FENWICK HALL ALLEÉ (CONTAINING 0.272 ACRES) AND CREATING RESIDUAL TRACT C-1 (TMS NO. 346-00-00-077) CONTAINING 15.454 ACRES, RESIDUAL TRACT B-2-1 (TMS NO. 346-00-00-004) CONTAINING 24.895 ACRES, AND RESIDUAL TRACT B-2-2 (TMS NO. 346-00-00-076) CONTAINING 22.856 ACRES PREPARED FOR PENNY CREEK ASSOCIATES, LLC AND FENWICK TARRAGON APARTMENTS, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by HLA, Inc., dated December 6, 2004, and recorded March 25, 2005, in the RMC Office for Charleston County, South Carolina in Plat Book EH at Page 817. Said streets, roads, drives and cul-de-sacs butting and bounding, measuring and containing, and having such courses and distances as shown are shown on said plat, it being the intent of this legal description to convey the entire right-of-way. Reference being had to the aforesaid plat for a more full and complete description, being all of the said dimensions, a little more or a little less. Together with an exclusive easement for drainage and maintenance purposes over all drainage easement shown on the said plat.

LESS AND EXCEPTING: ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, measuring and containing 12.250 acres as more fully shown and designated as "PROPOSED TRACT B-2-3" on that plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the RMC

Office for Charleston County, South Carolina, said parcel having such location, buttings, boundings, courses and distances as by references to said plat more fully appear.

THE ABOVE REFERENCED PROPERTY IS ALSO KNOWN AS

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as **Tract B-2-1**, said to contain 11.645 total acres, as shown on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the R.M.C. Office for Charleston County (herein after "R.M.C. Office"); said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

AND

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as **Tract B-2-2**, said to contain 22.91 acres total, more or less, as shown on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the R.M.C. Office for Charleston County (herein after "R.M.C. Office"); said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

TMS Nos.: 346-00-00-004 and 346-00-00-076

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "LOT 2A The Preserve Fenwick Plantation Owner: 1776, LLC, 215,476 SF, 4.947 AC", on a plat entitled, "A SUBDIVISION PLAT OF TMS #346-00-00-258 INTO LOT 2 (4.101 AC) AND LOT 2A (4.947 AC) OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" by Seamon Whiteside and Associates Surveying, LLC, dated September 6, 2018, and recorded in the ROD Office for Charleston County, South Carolina in Plat Book

LM at Page ~~24~~²⁴, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

TMS #346-00-00-258

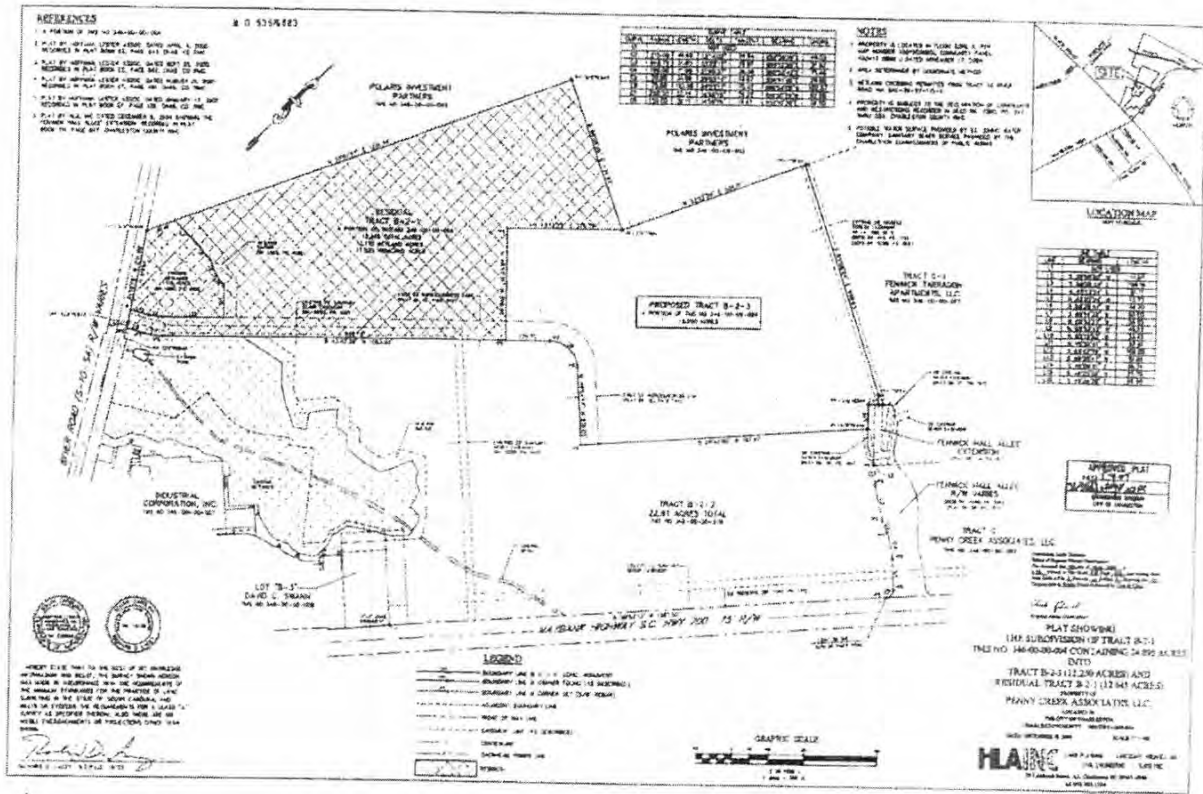
AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "LOT 3 The Preserve Fenwick Plantation TMS 346-00-00-259 Owner: 1776, LLC, 191,188.51 SF, 4.389 AC", on a plat entitled, "A SUBDIVISION PLAT OF TMS #346-00-00-259 INTO LOT 3 (4.389 AC) AND LOT 3A (4.347 AC) OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" by Seamon Whiteside and Associates Surveying, LLC, dated September 8, 2018, and recorded in the ROD Office for Charleston County, South Carolina in Plat Book 12 at Page ~~24~~²⁴, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

TMS #346-00-00-259

***Planned Development Guidelines
Village at Fenwick
December 7, 2015***

APPENDIX F



RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document

**Filed By:**

HELLMAN YATES & TISDALE

105 BROAD STREET, 3 FLOOR
CHARLESTON SC 29401 (BOX)

RECORDED

Date: December 2, 2019

Time: 3:17:27 PM

Book	Page	DocType
0843	506	Agmt

Michael Miller, Register
Charleston County, SC

Maker:

CITY OF CHARLESTON

of Sats:

of Pages: 131

of Refs: Note: **Recipient:**

1776 LLC

Recording Fee \$ 25.00

Extra Reference Cost \$ -

Extra Pages \$ -

Postage \$ -

Chattel \$ -

TOTAL \$ 25.00**Original Book:****Original Page:**

Drawer **Drawer 2**
Clerk **JBA**



0843
Book



506
Page



12/02/2019
Recorded Date



131
Pgs



Original Book



Original Page



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Doc Type



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Recorded Time



STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that, **1776, LLC**, a South Carolina limited liability company ("Grantor"), for and in consideration of the sum of **Four Million Seven Hundred Ninety-Four Thousand Five Hundred Dollars (\$4,794,500.00)** to it in hand paid at and before the sealing of these presents by **BEACH FENWICK, LLC**, a South Carolina limited liability company ("Grantee"), in the State aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantee, the following described property, to-wit:

ALL that certain piece, parcel or tract of land situate, lying and being in the City of Charleston, Charleston County, South Carolina, containing 19.322 acres, more or less, and being shown as "TRACT B-2-2 TMS 346-00-00-076 OWNER: 1776 LLC PREVIOUS ACREAGE 998,976 SF 22.933 AC NEW ACREAGE 841,688 SF 19.322 AC" on a plat entitled "A PLAT OF A PORTION OF TMS #346-00-00-004, AND -076 OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA FOR THE NORTHERN PITCHFORK ROAD" dated January 22, 2019, last revised December 4, 2019, prepared by Philip R. Bryan, Jr. S.C.P.L.S. No. 28597 of Southeastern Land Surveying LLC and recorded on December 4, 2019, in Plat Book L19, Page 0515, in the ROD Office for Charleston County, South Carolina. Said parcel having such size, shape, buttings and boundings as will more fully appear by reference to said plat.

SUBJECT TO all applicable matters set forth on Exhibit A, attached hereto, and incorporated herein.

BEING A PORTION of the property conveyed to Grantor by deed of Mikell R. Scarborough as Master-in-Equity dated August 29, 2017 and recorded August 29, 2017 at Book 0662, Page 915 in the ROD Office for Charleston county, South Carolina.

TMS No.: 346-00-00-076

Grantee's Address: 211 King Street, Suite 300
 Charleston, SC 29401

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 Grantee, its successors and assigns, forever.

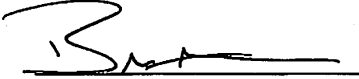
AND Grantor does hereby bind itself, its successors and assigns, to warrant and forever defend, all and singular, the said premises unto the said Grantee, its successors and assigns, against it and its successors and assigns lawfully claiming, or to claim the same or any part thereof, by, under or through it, but not otherwise.

NPCHAR1:2743627.3

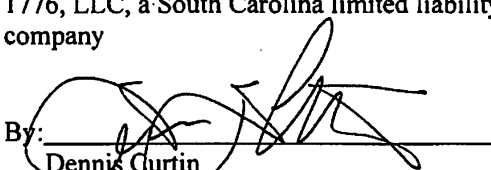
WITNESS Grantor's hand and seal this 12th day of December 2019.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

1776, LLC, a South Carolina limited liability
company



Witness

By: 

Dennis Curtin
Its: Authorized Agent

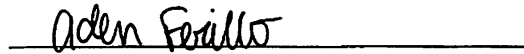


Witness

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

THE FOREGOING was acknowledged before me this 12th day of December 2019,
by 1776, LLC by Dennis Curtin, its Authorized Agent.



Notary Public for the State of South Carolina
My Commission Expires: 12/18/28
[SEAL]

Aden Ferillo
Notary Public, State of South Carolina
My Commission Expires December 18, 2028

NPCHAR1:2743627.3

Exhibit A

The property is hereby conveyed subject to the following matters, but only to the extent applicable to the property:

1. Taxes and assessments for the year 2020, and subsequent years, and any rollback taxes that may arise pursuant to S.C. Code Section 12-43-220.
2. Easement from Helena I. Blanchard, to South Carolina Electric & Gas Company, dated December 12, 1958, and recorded in **Book K66, Page 587**, in the Office of the Register Deeds for Charleston County, South Carolina.
3. Restrictive Covenants by FHP Realty Company, dated August 20, 1984, and recorded January 18, 1985, in **Book V142, Page 434**, in the Office of the Register Deeds for Charleston County, South Carolina.
4. Right-of-Way Easement from F.H.P. Realty Company, a Partnership, to Commissioners of Public Works of the City of Charleston, South Carolina, dated July 12, 1985, and recorded July 19, 1985, in **Book S146, Page 835**, in the Office of the Register Deeds for Charleston County, South Carolina.
5. Easement from FHP Realty Company, to South Carolina Electric & Gas Company, dated July 8, 1988, and recorded September 16, 1988, in **Book A178, Page 263**, in the Office of the Register Deeds for Charleston County, South Carolina.
6. Easement from FHP Realty Company, to South Carolina Electric & Gas Company, dated April 22, 1991, and recorded April 30, 1991, in **Book E202, Page 769** in the Office of the Register Deeds for Charleston County, South Carolina.
7. Right-of-Way Easement from F.H.P. Realty Company, a Partnership, to Commissioners of Public Works of the City of Charleston, South Carolina, dated April 18, 1991, and recorded May 10, 1991, in **Book O202, Page 833**, in the Office of the Register Deeds for Charleston County, South Carolina.
8. Declaration of Restrictive Covenants by FHP Realty, Inc. and Industrial Corporation, Inc., dated January 23, 1998, and recorded May 13, 1998, in **Book S302, Page 688**; as amended by that Amendment to Declaration of Restrictive Covenants dated June 20, 2000, and recorded July 6, 2000 in **Book V350, Page 009**, in the Office of the Register Deeds for Charleston County, South Carolina.
9. Declaration of Covenants and Restrictions for Fenwick Hall Plantation and Provisions for and By-Laws of the Fenwick Hall Plantation Property Owners Association, Inc., dated December 11, 2001, and recorded December 12, 2001 in **Book V390, Page 247**; as amended by First Supplemental Declaration of Covenants and Restrictions for Fenwick Hall Plantation, dated August 20, 2004, and recorded September 3, 2004, in **Book R508, Page 707**; as amended by Second Supplemental Declaration of Covenants and Restrictions for Fenwick Hall Plantation, dated April 29, 2005, and recorded May 4, 2005, in **Book T535, Page 509**, as assigned by Penny Creek Associates, LLC: Assignment of Declarant's Rights Under Declaration of Covenants and Restrictions and Conditional Ratification and Rededication of Covenants and Restrictions of Fenwick Hall Plantation, dated August 23, 2017, and recorded August 29, 2017, in **Book 0662, Page 917**; and as amended by Third Supplemental Declaration of Covenants and Restrictions for Fenwick Hall Plantation, dated November 26, 2018, and recorded November 26, 2018, in **Book 0762, Page 183**, all in the Office of the Register Deeds for Charleston County, South Carolina.

NPCHARI:2743627.3

10. As to Tract B-2-2, plat by HCA Inc. dated December 10, 2004 and recorded at **Plat Book EH, Page 903** shows the following:

- (a) Wetlands and wetland buffer;
- (b) Existing 20' Sanitary Sewer Easement;
- (c) Existing Ditch;
- (d) 50' Preserve;
- (e) 20' Existing Water Easement; and
- (f) Existing pond.

11. Development Agreement by and between The City of Charleston, South Carolina, and 1776, LLC dated November 27, 2019, and recorded December 2, 2019, in **Book 0843, Page 506**, in the Office of the Register of Deeds for Charleston County, South Carolina.

NPCHAR1:2743627.3

STATE OF SOUTH CAROLINA)
) **AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS**
 COUNTY OF CHARLESTON)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
- 2 The property being transferred is located in Charleston County bearing Charleston County Tax Map Number 346-00-00-076, and was transferred by 1776, LLC to Beach Fenwick, LLC, on December 12, 2019.
3. Check one of the following: The deed is
 - (a) X subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - (c) _____ exempt from the deed recording fee because (See Information section of affidavit): _____
 (If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):
 - (a) X The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$4,794,500.00.
 - (b) _____ The fee is computed on the fair market value of the realty which is _____.
 - (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes _____ or No X to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:

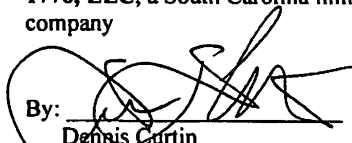
(a) Place the amount listed in item 4 above here:	\$ <u>4,794,500.00</u>
(b) Place the amount listed in item 5 above here:	\$ <u>0.00</u>
(If no amount is listed, place zero here.)	
(c) Subtract Line 6(b) from Line 6(a) and place result here:	\$ <u>4,794,500.00</u>

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$17,739.65

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Grantor.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

1776, LLC, a South Carolina limited liability company

By: 
Dennis Curtin
Its: Authorized Agent

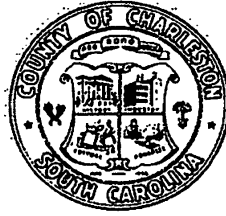
SWORN to and subscribed before me this
12th day of December, 2019.

Aden Ferillo
Notary (L.S.):
Notary Public for South Carolina
My Commission Expires: 12/18/28
Notary (printed name): Aden Ferillo

Aden Ferillo
Notary Public, State of South Carolina
My Commission Expires December 18, 2028

RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document

**Filed By:**

NEXSEN PRUET, LLC
205 KING STREET, SUITE 400
P.O. BOX 486
CHARLESTON SC 29402 (BOX)

RECORDED

Date: December 12, 2019

Time: 1:32:45 PM

Book	Page	DocType
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Michael Miller, Register
Charleston County, SC

MAKER:

1776 LLC

of Pages: 7

RECIPIENT:

BEACH FENWICK LLC

Note:

Recording Fee	\$ 15.00
State Fee	\$ 12,465.70
County Fee	\$ 5,273.95
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 17,754.65

Original Book:**Original Page:****AUDITOR STAMP HERE**

RECEIVED From ROD

Dec 23, 2019

Peter J. Tecklenburg

Charleston County Auditor

PID VERIFIED BY ASSESSOR

REP MKD

DATE 12/27/2019

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STATE OF SOUTH CAROLINA	)	PARTIAL ASSIGNMENT AND
	)	ASSUMPTION OF RIGHTS AND
	)	OBLIGATIONS UNDER
COUNTY OF CHARLESTON	)	DEVELOPMENT AGREEMENT

This PARTIAL ASSIGNMENT AND ASSUMPTION OF RIGHTS AND OBLIGATIONS UNDER DEVELOPMENT AGREEMENT ("Partial Assignment and Assumption") is dated effective as of this 12 day of December, 2019 ("Effective Date"), by and between 1776, LLC, a South Carolina limited liability company ("Assignor"), and Beach Fenwick, LLC, a South Carolina limited liability company ("Assignee").

RECITALS:

WHEREAS, on or about November 27, 2019, the City of Charleston, a political subdivision of the State of South Carolina (the "City"), and 1776, LLC ("Owner") entered into that certain Development Agreement ("Agreement") as further described on Exhibit D of the Agreement (the "Property"), which Agreement was recorded on December 2, 2019, in the Register of Deeds for Charleston County, South Carolina (the "ROD") in Book 0843 at Page 506; and

WHEREAS, simultaneously herewith, Assignor conveyed 19.322 acres of Property to Assignee, as is more fully described on Exhibit A attached hereto (the "Transferred Property"), by that certain Limited Warranty Deed dated and recorded simultaneously herewith in the ROD.

WHEREAS, as an integral part of the conveyance of the Transferred Property from Assignor to Assignee, it is the desire and intention of Assignor to assign to Assignee, and it is the desire and intention of Assignee to assume a portion of the Assigned Rights under the terms of the Development Agreement, solely applicable to the Transferred Property, thus necessitating the preparation and execution of the within Partial Assignment and Assumption.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy whereof is herewith acknowledged, the parties hereby agree as follows, to wit:

1. Recitals. The foregoing recitals are incorporated herein as if fully set forth below.

2. Partial Assignment and Assumption of Rights Privileges and Obligations Applicable to the Transferred Property Pursuant to the Development Agreement. Assignor does hereby transfer, assign, convey and deliver unto Assignee, its successors and assigns, all of Assignor's rights, privileges and obligations solely as described in the Development Agreement with respect to the Transferred Property (the "Allocated Rights"). Assignee hereby assumes and agrees to perform all of Assignor's rights, privileges and obligations as described in the Development Agreement, applicable to the Transferred Property. Assignee acknowledges receipt of the Development Agreement and all Exhibits thereto and agrees to be bound by the terms thereof and to develop the Transferred Property in accordance with such terms. The rights and obligations hereby assigned and assumed shall be covenants running with the land, binding upon the parties hereto and their successors and assigns.

Notwithstanding the above, Assignor acknowledges and agrees that Assignee is not responsible for and does not assume or agree to perform the Assignor's obligation with respect to the contribution of land for Northern Pitchfork Road required pursuant to Section 11(a) of the Agreement.

3. Notices. Any notice, demand, request, consent, approval or communication among any of the parties hereto shall be in writing and shall be delivered or addressed as provided under Section 25(g) of the Development Agreement and shall also be addressed as follows:

As to Assignee:

Beach Fenwick, LLC
211 King Street, Suite 300
Charleston, South Carolina 29401
Attn: Daniel J. Doyle, Vice President
E-mail: ddoyle@thebeachcompany.com
Telephone: (843) 277-3020
Facsimile Number: (843) 277-6449

With a required copy to:

Nexsen Pruet, LLC
205 King Street, Suite 400
Charleston, South Carolina 29401
Attn: J. David Hawkins, Esq.
E-mail: DHawkins@nexsenpruet.com
Telephone: (843) 720-1745
Facsimile Number: (843) 720-1777

As to Assignor:

1776, LLC
36 Prioleau Street, Unit N
Charleston, South Carolina 29401
Attn: Gene Zurlo
E-mail: genezurlo@aol.com
1776management@gmail.com
Telephone: (843) 224-1824
Facsimile Number N/A

With a required copies to:

Dennis D. Curtin
32 Prioleau Street
Charleston, South Carolina 29401
E-mail: 1776management@gmail.com
Telephone: (518) 335-9323
Facsimile Number: N/A

Brian A. Hellman, Esq.
Hellman Yates & Tisdale, PA
105 Broad Street, Third Floor
Charleston, SC 29401
Email: bh@hellmanyates.com
Telephone: (843) 414 9753

4. Binding Effect. This Partial Assignment and Assumption shall inure to the benefit of and be binding upon the respective parties hereto, their successors and assigns, and its rights and obligations are covenants running with the land.

5. Governing Law. The within Partial Assignment and Assumption shall be interpreted and construed and conform to the laws of the State of South Carolina.

6. Reaffirmation of Terms. All other terms, conditions, rights and privileges contained in the Development Agreement not specifically referenced herein shall remain in full force and effect and binding upon the parties hereto and their successors and assigns.

[Remainder of page left blank, intentionally. Signature pages to follow.]

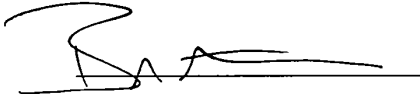
IN WITNESS WHEREOF, the parties have caused this Partial Assignment and Assumption of Rights and Obligations Under Development Agreement to be duly executed as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

ASSIGNOR:

1776, LLC

a South Carolina limited liability company

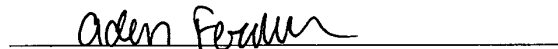

Aden Ferillo

By: 
Dennis D. Curtin
Its: Authorized Agent

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

THE FOREGOING was acknowledged before me this 12th day of December 2019,
by 1776, LLC by Dennis Curtin, its Authorized Agent.


Notary Public for the State of South Carolina
My Commission Expires: 12/18/28
[SEAL]

Aden Ferillo
Notary Public, State of South Carolina
My Commission Expires December 18, 2028

IN WITNESS WHEREOF, the parties have caused this Partial Assignment and Assumption of Rights and Obligations Under Development Agreement to be duly executed as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

ASSIGNEE:

BEACH FENWICK, LLC,
a South Carolina limited liability company

Rhonda R. Jurely
Chloé C. Medert

By: The Beach Co., a South Carolina corporation
Its: Manager

By: [Signature]
Name: Charles S. Way, Jr.
Title: Chairman of the Board

By: [Signature]
Name: Tyler E. Cooper
Title: Vice President

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

THE FOREGOING was acknowledged before me this 12th day of December 2019,
by Beach Fenwick, LLC, by The Beach Co., its Manager, by Charles S. Way, Jr., its
Chairman of the Board and Tyler E. Cooper, its Vice President.

Chloé C. Medert
Notary Public for the State of South Carolina
My Commission Expires: March 17, 2025
[SEAL]

Exhibit A**Transferred Property**

ALL that certain piece, parcel or tract of land situate, lying and being in the City of Charleston, Charleston County, South Carolina, being shown as **"TRACT B-2-2 TMS 346-00-00-076 OWNER: 1776 LLC PREVIOUS ACREAGE 998,976 SF, 22.933 AC, NEW ACREAGE 841,688 SF, 19.322 AC"** on a plat entitled "A PLAT OF A PORTION OF TMS #346-00-00-004, AND -076 OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA FOR THE NORTHERN PITCHFORK ROAD" dated January 22, 2019, last revised December 4, 2019, prepared by Philip A Bryan, Jr. S.C.P.L.S. No. 28597 of Southeastern Land Surveying LLC and recorded on December 4, 2019 in Plat Book L19, Page 0515 in the ROD Office for Charleston County, South Carolina. Said parcels having such size, shape, buttings and boundings as will more fully appear by reference to said plat.

SUBJECT TO matters shown on the above referenced plat, taxes that may be assessed pursuant to S.C. Code Section 12-43-220(4), and any and all easements, reservations, rights of way, restrictive covenants, and matters of record and to all government statutes, ordinances, rules, permits, and regulations.

BEING A PORTION of that property conveyed to Grantor by deed of Mikell R. Scarborough as Master-in-Equity dated August 29, 2017 and recorded August 29, 2017 at Book 0662, Page 915 in the Charleston County ROD Office.

TMS No.: 346-00-00-076

RECORDER'S PAGE

NOTE: This page **MUST** remain
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**Filed By:**

NEXSEN PRUET, LLC
205 KING STREET, SUITE 400
P.O. BOX 486
CHARLESTON SC 29402 (BOX)

RECORDED

Date: December 12, 2019

Time: 1:34:00 PM

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Michael Miller, Register
Charleston County, SC

MAKER:

1776 LLC

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of References:

Note:

RECIPIENT:

BEACH FENWICK LLC

Recording Fee \$ 25.00

Extra Reference Cost \$ -

Extra Pages \$ -

Postage \$ -

Chattel \$ -

TOTAL \$ 25.00**Original Book:**

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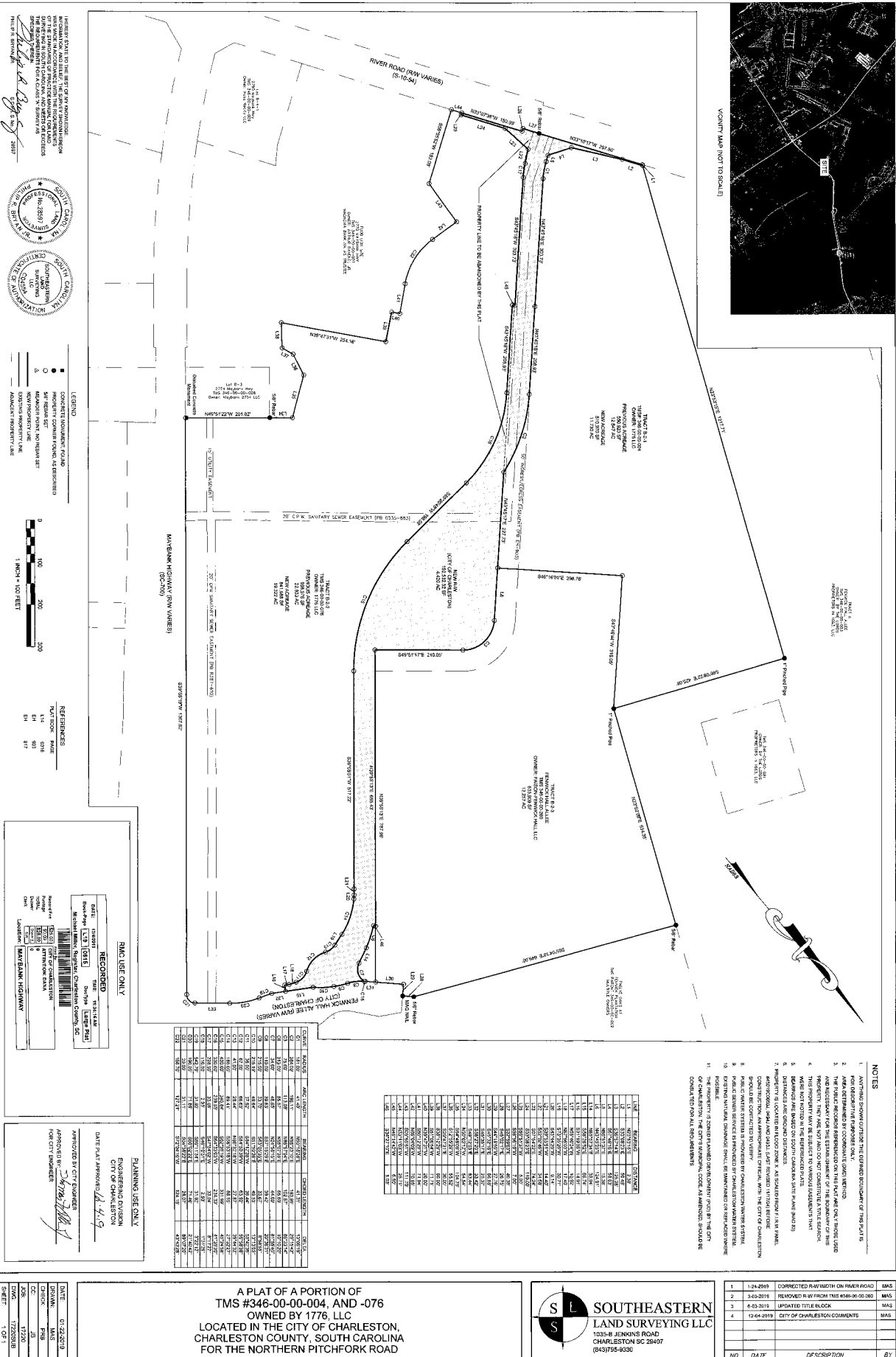
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Ratification
Number 2019-102

A N O R D I N A N C E

TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) BY AMENDING PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN AND DEVELOPMENT GUIDELINES FOR PROPERTY LOCATED ON RIVER ROAD AND MAYBANK HIGHWAY (THE VILLAGE AT FENWICK PUD – JOHNS ISLAND) (APPROXIMATELY 44.891 ACRES) (TMS# 346-00-00-004, 076 AND PORTIONS OF 346-00-00-258 AND 259).

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That the Zoning Ordinance of the City of Charleston be, and the same hereby is amended, by amending The Village at Fenwick Planned Unit Development Master Plan and Development Guidelines as more fully described in the document titled “First Amendment to Amended and Restated Planned Unit Development Guidelines – The Village at Fenwick” which is attached hereto and made part hereof:

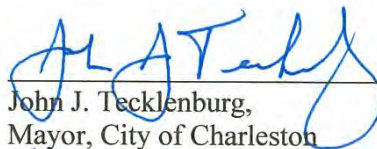
Section 2. The Village at Fenwick Planned Unit Development Master Plan and Development Guidelines be amended for property described as follows:

Property located off River Road and Maybank Highway (approximately 44.891 acres) (TMS# 346-00-00-004, 076 and portions of 346-00-00-258 and 259).

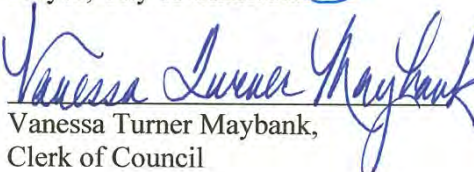
Section 3. This Ordinance shall become effective upon ratification.

Ratified in City Council this 8th day of
October in the Year of Our Lord
2019, in the 244th Year of Independence of the
United States of America.

By:


John J. Tecklenburg,
Mayor, City of Charleston

Attest:

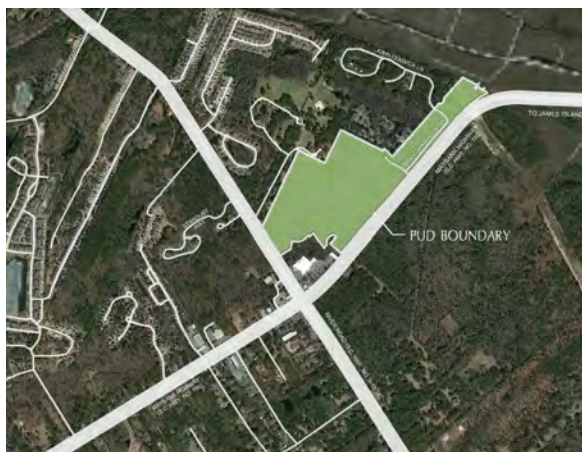

Vanessa Turner Maybank,
Clerk of Council

FIRST AMENDMENT TO AMENDED AND RESTATED PLANNED UNIT DEVELOPMENT GUIDELINES

The Village at Fenwick

Charleston, South Carolina

ID# 150928-RiverRd-1



This First Amendment to Amended and Restated Village at Fenwick PUD Master Plan was approved by the City of Charleston on _____, Ordinance Number _____.

The following Sections of the Amended and Restated Planned Unit Development Guidelines for the Village at Fenwick shall be modified and amended as stated below:

III. PUD Land Uses and Development Regulations

A. Land Uses

3. **Village at Fenwick Mixed Use Commercial (VFMC)** designated area(s) will allow moderate intensity mixed use, residential, and commercial. The following uses shall be permitted:
 1. Uses permitted in the GB district, except that commercial hours of operation shall be limited to ~~7 a.m.~~ 5 a.m. to 12 a.m.; provided that Food Stores, Eating Places located within Food Stores, Drug Stores, and their related, ancillary, or similar commercial uses located within such Food Store or Drug Store shall not be subject to the above limited hours of operation.

Note: VFMC areas will be under purview of the Design Review Board (DRB).

B. Development Regulations

All lots must conform to dimensional, density, and zoning requirements as found in the following chart:

	VFMR	VFMC
Minimum Building Frontage along Right of Ways	None	~~65%~~ <u>None</u>

2. Development standards for **Village at Fenwick Mixed-Use Commercial (VFMC)**
 - e) Individual commercial building footprints shall be limited to 30,000 square ft. max. footprint area; provided that a single building with a 55,000 square ft. max. footprint shall be allowed provided that: (i) such building is located in the area identified in Appendix M, and (ii) no other building in the VFMC exceeds a 15,000 square ft. max. footprint.

VI. Streets, Sidewalks, and Trails

- F. No new driveway or street connection to Maybank Highway shall be permitted from the planned development except for the planned 'Pitchfork Road', ~~subject to the approval of~~ unless approved by the City of Charleston Traffic and Transportation Department, Zoning Administrator, and SCDOT, as applicable. No new street or driveway connections from the planned development to River Road shall be permitted except for the planned 'Pitchfork Road' connection. The existing vehicular connection from TMS 346-00-00-008 to Maybank Highway may remain. Approval of this PUD shall remove and replace the language found in restrictive covenant #4 pertaining to parcel 346-00-00-076 found in (Bk Y166, Pg 522; Bk V142, Pg 434) with the language found in this paragraph. See Appendix E for Restrictive Covenants. Vehicular connections to the Village at Fenwick shall be provided along the new Pitchfork Road. There shall be no more than one (1) curb cut in each side of the Pitchfork Road per every five hundred (500') feet of roadway unless

*First Amendment to Amended and Restated
Planned Development Guidelines
Village at Fenwick
April 4, 2019*

otherwise agreed to, in writing, by the Zoning Administrator for the City of Charleston, who may require the approval of the City Traffic and Transportation Department and the property owners representing the majority of the PUD acreage.

XIV. Appendices

*First Amendment to Amended and Restated
Planned Development Guidelines
Village at Fenwick
April 4, 2019*

APPENDIX M





Ratification
Number 2018-164

AN ORDINANCE

TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON, BY AMENDING ORDINANCE NO. 2016-005, ESTABLISHING THE VILLAGE AT FENWICK PLANNED UNIT DEVELOPMENT GUIDELINES, SO THAT PROPERTY OWNED BY 1776, LLC, LOCATED ON JOHNS ISLAND, IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA, CONSISTING OF (1) APPROXIMATELY 12.645 ACRES ON RIVER ROAD (TMS NO. 346-00-00-004); (2) APPROXIMATELY 22.91 ACRES ON RIVER ROAD AND MAYBANK HIGHWAY (TMS NO. 346-00-00-076); (3) APPROXIMATELY 4.947 ACRES (A PORTION OF TMS NO. 346-00-00-258); AND (4) APPROXIMATELY 4.389 ACRES (A PORTION OF TMS NO. 346-00-00-259) (COUNCIL DISTRICT 5) BE SUBJECT TO THE AMENDED AND RESTATED PLANNED UNIT DEVELOPMENT GUIDELINES FOR THE VILLAGE AT FENWICK.

BE IT ORDERED AND ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

WHEREAS, on January 12, 2016, City Council adopted Ordinance No. 2016-005, rezoning the above-referenced properties (collectively, the "Property") and others to Planned Unit Development (PUD) classification and adopting The Village at Fenwick Planned Unit Development Guidelines (the "Guidelines") as the development plan for the Property;

WHEREAS, the planned "Northern Pitchfork Road," expected to significantly relieve traffic congestion on Johns Island, will lie within the boundaries of the properties subject to the Guidelines, with a majority of the North Pitchfork Road and its supporting facilities, including but not limited to drainage facilities, lying within the boundaries of the Property;

WHEREAS, 1776, LLC, the owner of the Property ("Owner"), has agreed to donate fee simple title to the portions of the Property necessary to construct the North Pitchfork Road and supporting facilities to the City; and

WHEREAS, the Owner's donation has resulted in changed conditions with respect to the planned development of the Property under the Guidelines, and City Council finds it necessary to amend the Guidelines to take into account these changed conditions.

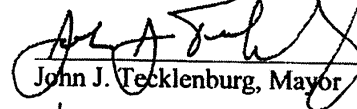
Section 1. City Council hereby amends Ordinance No. 2016-005 by substituting the Amended and Restated Planned Development Guidelines for the Village at Fenwick (the "Amended

Guidelines”), a copy of which is attached hereto and incorporated herein by reference as Exhibit 1, for the Guidelines as the development plan for the Property only.

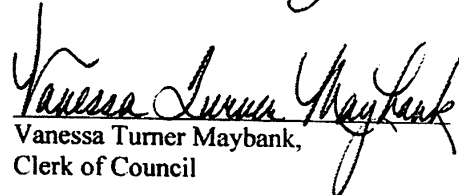
Section 2. The Property is more particularly described on Exhibit 2, attached hereto and incorporated herein by reference.

Section 3. This Ordinance shall become effective upon ratification, such that the Amended Guidelines shall be vested upon ratification; provided, however, the Guidelines shall govern the development of the Property through January 12, 2019, after which the Amended Guidelines shall govern the development of the Property.

Ratified in City Council this 18th day of
December in the Year of Our Lord, 2018,
and in the 243rd Year of the Independence of
the United States of America


John J. Tecklenburg, Mayor

ATTEST:


Vanessa Turner Maybank,
Clerk of Council

City Council Approved
December 18, 2018
Ord # 2018-164

*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

AMENDED AND RESTATED PLANNED UNIT DEVELOPMENT GUIDELINES

The Village at Fenwick

Charleston, South Carolina

ID# 150928-RiverRd-1

[NEW DATE]



ELECTRONICALLY FILED - 2020 Aug 24 10:14 AM - CHARLESTON - COMMON PLEAS - CASE#2020CP1000209

*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

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PLANNED UNIT DEVELOPMENT

MASTER PLAN REQUIREMENTS

CITY OF CHARLESTON

RELATIONSHIP TO THE CITY OF CHARLESTON ZONING ORDINANCE

This Amended and Restated Development Guidelines and Land Use Plan for the Village at Fenwick Planned Unit Development (hereinafter "PUD") supersedes and replaces the original Development Guidelines and Land Use Plan for the Village at Fenwick Planned Unit Development. The PUD, as amended and restated herein and attached hereto and made a part hereof, is part of the PUD conditional use Master Plan application submitted in accordance with the Zoning Ordinance of the City of Charleston, Article 2, Part 7 Sections 54-250, et seq. The Zoning Ordinance of the City of Charleston is incorporated herein by reference, except as amended herein.

No person shall erect or alter any building, structure, or sign on any tract of land or use any tract of land within the Village at Fenwick PUD except in conformance with these guidelines and regulations. Unless modified herein, definitions of terms used in the Village at Fenwick PUD Development Guidelines shall follow definitions listed in the Zoning Ordinance of the City of Charleston, as amended from time to time. Administration and enforcement of the adopted Village at Fenwick PUD Master Plan shall follow Article 9 of the Zoning Ordinance of the City of Charleston.

The amended and restated Village at Fenwick PUD Master Plan was approved by the City of Charleston on

12/18/18, Ordinance Number 2018-164.

I. Statement of Purpose, Intent, Objectives

This Planned Unit Development is intended to meet the criteria listed in Section 54-254 in the City of Charleston zoning code. The PUD allows flexibility in neighborhood design to create an urban node for Johns Island while providing open space, protecting the site's grand trees, and being sensitive to the context of Johns Island. This document is consistent with the City's adopted comprehensive plan, the Century V Plan, the Johns Island Community Plan, and the Johns Island Community Greenway Plan.

By creating additional open space including a linear park, that runs parallel to Maybank Highway, and a leisure trail system, this development better achieves the goals of adopted plans or other zoning district regulations. A linear park within the conservation buffer area along Maybank Highway will incorporate a leisure trail, seating, ornamental plantings, and a historical design feature that will illustrate the history of Johns Island. A leisure trail system will wind through the entire development, creating an emphasis on pedestrian connectivity, and downplaying the role of the automobile.

This development is also consistent with the City's adopted master road plan. By committing to design the development around existing grand trees, allowing pervious road types, generating ample open space, and respecting the adjacent Fenwick Hall through buffering and architectural regulations, this PUD will protect and preserve natural and cultural resources better than standard zoning district regulations. The planned development aims to celebrate the natural characteristic of the Johns Island gateway while transitioning to the future "Four Corners" intersection at Maybank Highway and River Road.

Further, this planned development has been coded for compatibility with density and building height restrictions according to the City's vision for the location, as set forth by the Comprehensive Plan and Century V Plan. The planned development will be congruent with the density and maximum building height of the adjacent multistory apartments. To encourage a variety of roof lines through the PUD development, building heights shall be defined as number of stories. It is also compatible with the existing network of public streets and the proposed Pitchfork Road that is planned to go through the property. Additionally, this development is accommodated by existing and planned public facilities including roads, sewer, water, schools, parks, open space and recreational amenities. Coordination letters are included within this document. Finally, the POA will adequately provide for the continued maintenance of common areas, open space, and other public facilities not dedicated to the City of Charleston.

Upon City approval, these Planned Unit Development Guidelines shall apply to the entire 58.88 acres of this tract. Any zoning details not outlined in these guidelines will adhere to the current City of Charleston zoning guidelines and will default to the GB or DR-9 land use regulations, based on the parcels' zoning prior to this PUD. A Conceptual Land Use Plan and Conceptual Open Space Plan have been included within the appendices of this report.

This PUD is a zoning document only and does not include a Concept Plan component. Drainage, Utility and Fire Protection Plans meeting the City's requirements shall be provided with the future required Concept Plan submittal.

The Village at Fenwick PUD property includes a vehicular spur of the Pitchfork Traffic Plan set forth by the City of Charleston, with the goal of dispersing traffic, while creating walkable streets with on-street parking, to ultimately create a gathering place for Johns Island.

The vision of the Pitchfork Traffic Plan is to create a Johns Island inspired village center that is respectful of the grand live oaks and surrounding natural character of Johns Island. The goal of this PUD is to provide flexible zoning regulations in order to create a dense, walkable mixed-use gathering place along Maybank Highway and the Pitchfork spur that is sensitive to its surrounding landscape and history.

II. City Land Use & Zoning Designations

A. Century V Plan Recommendations:

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According to the City of Charleston's Century V Plan, this site's recommended future Land Use designations are Urban, Neighborhood Center, Conservation, and Suburban.

<u>Future Land Use</u>	<u>Acreage</u>	<u>Allowable Density*</u>	<u>Allowable Units</u>
Urban	9.52 AC upland	12 DU/AC	114
Neighborhood Center	35.51 AC upland	20 DU/AC	710
Conserved/Natural Area*	3.31 AC upland 6.23 AC wetland	0 DU/AC	0
Suburban	4.31 AC upland	8 DU/AC	34
TOTAL	52.65 AC upland 6.23 AC wetland	16.29 DU/AC	858

* Density calculated using upland acreage.

B. Current Base Zoning and Site Tabulation:

The Village at Fenwick PUD property, totaling 58.88 acres, is comprised of TMS numbered 346-00-00-004, TMS 346-00-00-076, TMS 346-00-00-260, 346-00-00-008, a portion of 346-00-00-258, a portion of 346-00-00-259, and TMS 346-00-00-301 as found on the tax maps included in the appendices of this report. The properties are zoned GB, GO, C, and DR-9 in the City of Charleston. The Village at Fenwick PUD property is surrounded by a mix of properties with zoning designations of RR-1, DR-1, GB, PUD and GO.

Existing TMS Acreage Chart:

<u>TMS #</u>	<u>Existing ACREAGE</u>	<u>Existing Zoning(s)</u>
346-00-00-004	12.64 AC	DR-9
346-00-00-076	22.93 AC	GB, GO, C
346-00-00-260	12.25 AC	DR-9
346-00-00-258*	4.82 AC	GO
346-00-00-259*	4.38 AC	GO, C
346-00-00-008	0.55 AC	GB
346-00-00-301	1.31 AC	C
TOTAL	58.88 AC	

* Portion of total parcel acreage

DR-9 – Diverse Residential; GB – General Business; GO – General Office; C – Conservation

Existing Zoning Chart:

<u>Ex. Zoning</u>	<u>Total Acreage</u>	<u>Density</u>	<u>Dwelling Units</u>

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DR-9	24.89 AC	9.0 units/AC	224 units
GB	14.61 AC	26.4 units/AC	385 units
GO	16.19 AC	--	--
C	3.19 AC	--	--
TOTAL	58.88 AC		609 units

III. PUD Land Uses and Development Regulations

A. Land Uses

The proposed development will contain residential, commercial, civic and open space land uses in a horizontal or vertical mixed use format. The PUD will categorize the intensity of development into two designations; Village at Fenwick Mixed Use Residential (VFMR) and Village at Fenwick Mixed Use Commercial (VFMC). In order to preserve the Maybank Highway natural corridor, the PUD will also consider Conservation (C) as part of the development regulation.

1. Site Tabulation:

<u>LAND USE</u>	<u>TOTAL</u>	<u>Projected WETLAND</u>	<u>Projected HIGH</u>	<u>Existing Pond</u>	<u>Maximum D.U.*</u>	<u>Maximum NET DENSITY</u>
VFMR**	27.30 Ac.	1.11 Ac.	26.19 Ac.		216	9.00 D.U./Upland Ac.
VFMC**	27.51 Ac.	5.12 Ac.	22.39 Ac.	0.55 Ac.	393	17.55 D.U./Upland Ac.
C**	4.07 Ac.	0.00 Ac.	4.07 Ac.		N/A	N/A
TOTAL	58.88 Ac.	6.23 Ac.	52.65 Ac.	0.55 Ac.	609	11.57 D.U./Upland Ac.

*Accessory dwelling units shall not count toward allowable density limit (see III, A, 2 for definition)

**See VII for Open Space Requirements

Notwithstanding the foregoing Site Tabulation, for any PUD parcel that is reduced in size because a portion of such parcel is conveyed for the Pitchfork Road, such PUD parcel or parcels shall each be credited with additional D.U. for the acreage conveyed. Based on the current engineered Pitchfork Road and related drainage system plans, the Maximum Net Density per Upland Acre specified in the Site Tabulation, above, for the parcels that are reduced in size shall be increased by the following D.U.:

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Parcel	Proposed Acreage Conveyed		Initial Maximum Net Density		Additional D.U. on Remaining High Acres
12.64 VFMR Parcel	0.877	X	9.00	=	7.893
12.25 VFMR Parcel	0.044	X	9.00	=	0.396
22.93 VFMC Parcel	3.541	X	17.55	=	62.144

2. **Village at Fenwick Mixed Use Residential (VFMR) designated area(s)** will allow primarily residential and limited commercial and mixed use. The following uses shall be permitted:

1. Single-family detached dwelling (SFD)
2. Two-family dwellings
3. Single-family attached dwellings
4. Nursing homes
5. Accessory Dwelling Units (ADU). Accessory Dwelling Unit shall be defined as for a secondary house or apartment with its own kitchen, living area and separate entrance that shares the building lot of a larger, primary house. The ADU may be attached to an existing house or garage, or it may be built as a stand-alone unit, but it usually uses the water and energy connections of the primary house and may be rented separately.
6. Detached accessory buildings for Office Space for Home Occupations
7. Live Work Units
8. Neighborhood commercial as defined in the City of Charleston CT zoning designation, except that commercial hours of operation shall be limited to 7 a.m. to 8 p.m.
9. Gazebos, shelters, play equipment, and other site furnishings shall be allowed in open spaces falling outside of wetlands and buffer areas.
10. Model homes, sales centers, and associated uses shall be allowed in all areas.
11. Parks, trails, open space, etc.

3. **Village at Fenwick Mixed Use Commercial (VFMC) designated area(s)** will allow moderate intensity mixed use, residential, and commercial. The following uses shall be permitted:
1. Uses permitted in the GB district, except that commercial hours of operation shall be limited to 7 a.m. to 12 a.m.
 2. Hotel, Motel, or Bed and Breakfast
 3. Multi-family / Apartment
 4. Uses permitted in the VFMR

Note: VFMC areas will be under purview of the Design Review Board (DRB).

B. Development Regulations

All lots must conform to dimensional, density, and zoning requirements as found in the following chart:

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	VFMR	VFMC
Min. Front Yd. Setback (ft.)*	5	0
Min. Side Yard Setback (ft.) from Property**	5	5
Min. Rear Yard Setback (ft.) from Property***	10	0
Min. Street Side Yard Setback (ft.) from Property Line	10	10
Build to Zone at Right of Ways *	5' – 15'	0'-10'
Accessory Building front setback toward rear from primary façade	10'	10'
Accessory Building side and rear setback	3'	3'
Maximum Ht.	3 stories	4 stories
Building Coverage (Max. %)		
Commercial & MF	100%	100%
Single Family Attached	80%	85%
Single Family Detached	90%	95%
Minimum Lot Area (square feet)		
Commercial	None	None
Single Family Attached	1280	None
Single Family Detached	2500	None
Minimum Building Frontage along Right of Ways	None	65%.

* Setbacks and build-to lines shall be measured from the Right of Way line or innermost easement line. Flexibility for trees may be granted.

**Unless common wall construction

***Modified setbacks apply to properties adjacent to Fenwick. See Buffers in Section 4.

1. Development standards for Village at Fenwick Mixed-Use Residential (VFMR)

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- a) Architectural design must address and respond to the architectural elements present in Fenwick and must address the Fenwick side entry drive. This shall be enforced by the Architectural Review Board (ARB).
- b) A maximum of 50 accessory dwelling units (ADUs) shall be allowed, with the number per lot not to exceed 1 ADU. ADUs shall not count toward the allowable density calculation. ADUs shall be limited to 800 s.f of habitable area, excluding garage space. See section III, A, 2 for ADU definition. ADU approval and monitoring shall be the responsibility of the future Village at Fenwick DRB.
- c) Compact lots will be encouraged.
- d) The minimum lot frontage for lots with vehicular access to an alley may be 15'. This will allow flexibility for unique lot configurations to work around existing trees and common spaces.
- e) The maximum block size will be 800' x 800'. Blocks size shall be defined as the distance between Right of Ways, primary vehicular drives with angled or parallel parking, and / or Pedestrian Access Easements with leisure trails. Perimeter lots (lots with property lines on the PUD boundary) will be excluded from this requirement.
- f) Only 25% of the total lots on each street may have front loaded attached garages.

2. Development standards for Village at Fenwick Mixed-Use Commercial (VFMC)

- a) Drive-thru lanes shall be permitted but should be oriented away from the nearest existing ROW.
- b) There shall be no lot size requirements.
- c) Corner lots shall meet City of Charleston vision clearance triangle requirements.
- d) Steps, open stairways, open porches, eaves, roof awnings and decks may extend up to 5' into street front setback, but in no instance can they extend into the right of way.
- e) Individual commercial building footprints shall be limited to 30,000 square ft. max. footprint area.
- f) Block Size shall be a maximum of 600' x 600'. Blocks size shall be defined as the distance between Right of Ways, primary vehicular drives with parking, and / or Pedestrian Access Easements with leisure trails.
- g) Building Frontage shall be defined as the width of a building along a street, including parallel walls or fences, but excluding roof overhang and canopies, and any ornamental features that cause a protrusion from the walls of the building. Building frontage shall be measured as the combined width of the building faces that front the street and lie within setback limits or build to zones. When the width of the building varies vertically, building frontage shall be measured at ground level.
- h) Build-to Zone shall be defined as an area of a lot designated for placement of a building façade along a street, located parallel to a front property line. The Build-to Zone defines an area in which the locations of building fronts can vary within a specified range. Grand Tree Drip Zones and formal Open Spaces may be excluded from frontage calculations.

3. Off-Street Parking

- a) The proposed development shall refer to the Peninsula parking requirements outlined in the City of Charleston zoning ordinance and will be held to the "on peninsula" parking quantities.
- b) Platted private drives may be unpaved and include a minimum 20' long paved apron at street connections and paved areas to meet ADA compliance. Unpaved drives must be reviewed and approved by City of Charleston Staff.
- c) For any single-family and private properties, all driveways may be unpaved.
- d) Two way parking drive isles may be 22' and parking space dimensions may be 9'x18'. If no vehicle overhang is provided, parking spaces shall be the standard 9'x18.5'.

- e) Multi-level Parking Garages shall not be allowed.
- f) Parking areas and private drive isles may be paved, gravel, sand shell or of another pervious material.
- g) There shall be no parking between building fronts and Right of Ways in the VFMC areas.

See Appendix H for the City of Charleston Lower Peninsula Parking Standards.

4. Buffers

- a) Interior buffers between internal uses shall not be required.
- b) Wetland buffers may be required by the Army Corps of Engineers or SCDHEC Coastal Zone Consistency and shall be provided per their requirements.
- c) Wetland buffers will be outside of platted lots and will be owned and maintained by the Property Owner's Association (POA).
- d) Wetland buffers shall be per U.S. Army Corps of Engineers or SCDHEC Coastal Zone Consistency requirements. These buffer requirements supersede any City of Charleston requirements. Paved or non-paved walking trails, 5' wide or less will be allowed within the wetland buffers subject to U.S. Army Corps of Engineers' or SCDHEC Coastal Zone Consistency approval. If paths are not permitted by U.S. Army Corps of Engineers, Open Space may be required elsewhere such that the minimum requirement is met.
- e) A required, Type F, 50' buffer will be provided along Maybank Highway and will be maintained by the POA. This buffer will maintain required plant materials or may remain undisturbed. A portion of the proposed Linear Park will be located within and adjacent and run parallel to the Maybank Highway buffer. The Type F, 50' buffer may be reduced to no less than 35' in areas in which the widening of Maybank Highway has encroached into the proposed buffer area.
- f) Buffers and modified setbacks will be required along the Fenwick Allee and Rear property line. See Appendixes for buffer exhibits. Buffers will be within POA easements and will be maintained by the POA. Within the buffers, supplemental plantings may be allowed, otherwise buffers are to be left undisturbed. A masonry wall (or other wall or fence type screening element, as approved by the City of Charleston, SHPO, and any other applicable regulatory body) will be allowed in the buffer along with opportunities for plant screening. The approval of the owner of Fenwick Plantation will also be required to change or modify the type of buffer required along Fenwick Hall Plantation as set forth in appendix F.
- g) Supplementary to the Fenwick buffers, houses will be required to be subtle neutral tones, to minimize visual impact to the plantation. Color swatches shall be submitted for review and approval to the future Village at Fenwick ARB.
- h) Buffers are shown on the Open Space Plan and in the appendices of this document. With the exception of wetland buffers, no other buffers other than those indicated on the open space plan and described here within shall be required.

IV. Surveys

Plats and a Preliminary Wetland Survey have been included in the appendixes of this document. Tree surveys and wetland surveys will be required prior to any future Concept Plan or Preliminary Plat submittal.

V. Traffic Study

A traffic study has been previously completed for Pitchfork Road improvements and can be found on file with the City of Charleston. An executive Summary has been included in the appendix K of this document. A Time Travel Analysis was prepared for Charleston County and concluded that the

construction of the Pitchfork Road will save approximately 3 minutes of travel time for vehicles on Maybank Highway. The report, without exhibits, has been attached as appendix L. The complete Travel Time Analysis, inclusive of exhibits, is on file with the City of Charleston.

VI. Streets, Sidewalks, and Trails

- A. Streets within the Village at Fenwick PUD shall allow Neighborhood District street classifications and right of way design standards (Sections 54-820, - 821[a,d,h,l,m,n,u,p,q,r,s,t,u], -822,-823 of the City of Charleston Zoning Ordinance) as well as the new street sections found in Appendix G. Also, the developer may present modified versions of these street sections to be reviewed and approved through the TRC and Concept Plan process.
- B. Unpaved private streets, such as gravel, sand shell, or plantation mix shall be allowed if approved by City of Charleston Staff. Should an unpaved private road be desired, a street section shall be submitted to the City of Charleston Staff for review and approval. A parallel sidewalk or trail along unpaved streets may be allowed to satisfy ADA accessibility.
- C. Streets, public or private, may be studied with digitally simulated emergency and service vehicle modeling to ensure proper service and access. Exhibits shall be provided to city of Charleston as requested by City Staff.
- D. Sidewalks, parks, playgrounds, trails, pier/docks, pedestrian bridges, bicycle paths and any non-paved streets or roads that don't have sidewalks shall be ADA Compliant or maintain a proper ADA route throughout the development.
- E. Should public streets be used they will be paved and designed per City of Charleston standards and maintained by the City of Charleston if accepted. However, curb may be omitted to allow for bio-swales and other low impact development practices, pending review and acceptance by the City of Charleston staff.
- F. No new driveway or street connection to Maybank Highway shall be permitted from the planned development except for the planned 'Pitchfork Road', subject to the approval of the City of Charleston. No new street or driveway connections from the planned development to River Road shall be permitted except for the planned 'Pitchfork Road' connection. The existing vehicular connection from TMS 346-00-00-008 to Maybank Highway may remain. Approval of this PUD shall remove and replace the language found in restrictive covenant #4 pertaining to parcel 346-00-00-076 found in (Bk Y166, Pg 522; Bk V142, Pg 434) with the language found in this paragraph. See Appendix E for Restrictive Covenants. Vehicular connections to the Village at Fenwick shall be provided along the new Pitchfork Road. There shall be no more than one (1) curb cut in each side of the Pitchfork Road per every five hundred (500') feet of roadway unless otherwise agreed to, in writing, by the Zoning Administrator for the City of Charleston, who may require the approval of the City Traffic and Transportation Department and the property owners representing the majority of the PUD acreage.
- G. Due to significant tree resources, and an anticipated light imprint approach, cul-de-sac and hammerhead turn-arounds shall be allowed.
- H. Gated streets shall not be permitted.
- I. Pervious pavers, if approved by the City of Charleston Public Services Department, may be utilized in Public or Private Right-of-Ways (ROWs) where streets or sidewalks encroach into grand tree drip zones. Non-standard materials will require DRC approval.
- J. Temporary Right of Way cul-de-sac and / or temporary private cul-de-sacs shall be a minimum of 96' diameter measured at the ROW or easement line.
- K. The neighborhood will provide a continuous connected leisure trail system linking units and common space areas. Leisure trails shall be a minimum of 5' in width (see open space section), composed of concrete asphalt, pavers, or pervious material, and must meet ADA requirements. The leisure trail will connect useable park spaces where practical. The Open Space plan layout of the leisure trail is highly conceptual and will be subject to modification due to final site layouts. Leisure trails will be allowed to replace required sidewalks, such that pedestrian connectivity and ADA accessibility is maintained throughout the design. All walks outside of the ROW will be maintained by the POA. The requirement for trail and / or sidewalk shall not be dependent on Street Type.

- L. The minimum sight triangle for stop conditions at street intersections shall follow SCDOT ARMS manual standards.
- M. Lights shall not be required on private streets to minimize environmental impacts.
- N. Staff may approve reducing or eliminating Sidewalks within ROWs due to grand or significant tree conflicts, such that a proper ADA route is maintained.
- O. Prior to the construction/completion of the Northern Pitchfork Road, to further the development of the VFMC designated parcels in excess of five (5) acres, the City of Charleston will cooperate with such property owner with respect to the issuance of a disturbance permit the construction of improvements, so long as the application complies with applicable land development regulations. The City of Charleston will also cooperate with such property owner to permit the western end of the entrance island on Fenwick Allee to be temporarily removed so that access can be obtained to the 22.92 acre parcel in the location shown on the Open Space Plan, provided the entrance island is restored to its pre-existing condition prior to or upon the completion of construction on such parcel.

VII. Drainage

- A. All drainage design should be in accordance to the City of Charleston Stormwater Design Standard Manual except that swales may be utilized on private drives and may vary from the Stormwater Manual regulations in order to accommodate light imprint practices. Swales will be maintained by the POA. Also, to facilitate the vision and objectives of this PUD to preserve the natural characteristics of historic Fenwick Hall and its surroundings and to protect grand live oaks, consideration should be given to preserving the existing topography of the PUD parcels to the extent practicable by utilizing engineered drainage systems where possible to minimize the use of fill for drainage purposes. Any proposed deviations from the Stormwater Design Manual will be coordinated through and require approval by City Staff.
- B. Streets within private ROWs and parking and drainage systems within private commercial areas shall be maintained by the POA. The city of Charleston shall maintain storm drainage systems that convey runoff from Public Land or Public Rights of Way.
- C. The site drainage system must meet all applicable State, and Federal storm water regulations. The proposed public roadway construction must comply with the requirements of the City's Zoning Ordinance Section 54-821, Table 8.1 or Table 8-2.1 (Neighborhood District), or be per the roadway standards or sections included within or referenced by this document.

VIII. Signs

- A. One master sign may occur on Maybank Highway immediately west of Fenwick Hall Allee and be subject to permitting. One master sign may occur at the connection to River Road and be subject to permitting. Master sign heights shall be limited to no more than 10' in height above proposed grades and no more than 40 square feet of sign face per side. No backlit signs are allowed along Maybank Highway and River Road. The master entrance subdivision signs will be designed according to Article 4 of the City of Charleston zoning ordinance and may occur within buffers.
- B. A single secondary entrance sign per tract may be constructed at connection points to the Pitchfork Road or adjacent properties. Secondary entrance signs will be a maximum of 5' high with a maximum of 20s.f. of sign face per side.
- C. All signs and associated landscaping will be maintained by the POA. All master signage will be submitted for site plan and encroachment permit review. All other signs will be in accordance with the City of Charleston standards.
- D. There will be directional and traffic signage located throughout the development.

IX. Amenity Areas and Open Space

A. Required Open Space Chart:

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	<u>OVERALL OPEN SPACE* (20% of Site)</u>	<u>USEABLE OPEN SPACE* (25% of Overall Open Space)</u>
Minimum	11.78 Min.	2.95 Ac.
Projected	17.13 Ac.	5.01 Ac.

B. Open Space Definitions and Requirements:

1. Open space is calculated as 20% of the gross acreage. The proposed Open Space Plan meets or exceeds the required open space.
2. Usable open space is calculated as 25% of the required open space. The proposed Open Space Plan meets or exceeds the required usable open space.
3. Useable open space improvements must be shown on Construction Documents and installed prior to final plat.
4. The size and location of open space and useable open space shown within the Open Space Plan included in this document are subject to adjustment; however, these spaces will remain in excess of the required minimums.
5. Open space definitions are as follows:

Open Space. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space shall not include streets, drives, off-street parking and loading areas, area so located or of such size or shape to have no substantial aesthetic or recreational value and any area within residential lots.

Useable Open Space. Open space areas of high ground developed to provide for active recreational uses. Examples of possible types of usable open spaces could include paths, play fields, benches, walking trails, picnic areas and ponds with seating areas.
6. A connected system of open space leisure trails, playfields or community gardens, and a linear park along Maybank Highway will be provided as useable open space. All trails, walkways and paths shall be ADA Compliant.
 - a) **Linear Park:** The linear park will be located parallel to the Maybank Highway buffer, will count towards the useable open space requirement, and will include a 5' min leisure trail, benches or other seating opportunities, art, or an educational element that illustrates the history of Johns Island and Fenwick. The linear park may also include a wall, wooden decorative fence, or water feature. The linear park will be owned and maintained by the POA but, will be open to the public.
 - b) **Leisure Trails:** Leisure trails will be allowed to wind through buffers, between lots, or along ROWs to connect the site through a pedestrian network. The leisure trails will be a minimum of 5' wide, located within open space easements that are maintained by the POA, and easement areas may count toward the useable open space requirements. Leisure trail areas may include benches, swings, or seating areas. This network is conceptually shown on the open space plan in the appendices of this document, though actual routing is subject to final neighborhood design.

- c) **Community Garden or Play Fields:** A 1.37 acre community garden, playfield, or combination thereof will be improved below the SCE&G power line easement adjacent to the linear park. The open space area will include leisure trails that link to the overall trail system. The design of this area will be subject to SCEG approvals.

See Appendix D for Conceptual Open Space Plan.

X. Tree Summary

A. Existing Trees

1. The site is currently heavily wooded with a high concentration of grand live oaks. The vision of this project is to create a highly sensitive site plan effort that creates a meaningful gathering place and urban node that is respectful to the grand trees and natural surroundings.
2. A licensed independent arborist will be consulted to inspect the conditions and grade rating of existing grand trees. Every effort will be made to preserve A and B rated grand trees while other quality significant trees will be carefully evaluated and considered, while balancing the goal of creating a node for Johns Island.
3. Existing grand trees and their drip zones near the allee of oaks leading to Fenwick Hall and the Fenwick Hall property shall have proper and specific attention through construction and future planning as to avoid disrupting the natural aesthetic of the site.
4. Tree surveys will be provided prior to conceptual plan submittal.
5. All grand and protected trees shall be governed by Part 6 of the City of Charleston's Tree Protection Ordinance. Should the removal of a grand tree be deemed necessary, the Board of Zoning Appeals process shall be utilized.

B. Street Trees

1. Canopy Street trees will be required in the Public or Private right of way. Street trees will not count towards tree mitigation for tree variances. A Street Tree Plan will be required to be submitted for review and approval by the City Parks Department. The Street Tree Plan for the Northern Pitchfork will be the responsibility of the City of Charleston.
2. Existing significant or grand trees with that fall within 12' of a proposed right of way shall count towards the street tree requirement, subject to Parks Department approval.
3. Due to the high amount of anticipated significant and grand trees, City staff shall have the right to grant flexibility on size, species, spacing and location of required street trees in order to minimize the impact to existing trees.
4. Native tree species are encouraged to preserve the existing natural characteristic throughout the site.

XI. Additional Development Criteria

Sales and/or construction trailers and associated parking areas are allowed on POA areas or designated lots prior to the recording of plats. Site plan review and issuance of clearing and grading permits are required prior to the issuance of the required building permit.

In all cases where sidewalks, tree plantings, or mitigation plantings are required prior to the approval of a final plat for the property, sidewalks and tree mitigation shall be installed, inspected and deemed acceptable by the City. Sidewalks and tree plantings shall be contingent upon approval of encroachment permit and construction plans by the City. These items will be submitted for review to Public Services, Engineering and Parks and Recreation Departments.

Water will be served by Saint Johns Water Company

Sewer will be served by Charleston Water Systems for this project.

Gas will be served by SCE&G.

XII. Subdivision

Commercial and single family lots will be subdivided through subsequent plat submittals. The commercial parcel may be subdivided into multiple lots, provided that the subdivision meets the development criteria set forth in the standards of this PUD. The Village at Fenwick PUD will be a multi-phased development. A phasing plan will be submitted with the Concept Plan submittal and included / adjusted as necessary with subsequent Preliminary Plat submittals. Subdivision may occur off of platted private drives or pedestrian access easements, such that acceptable emergency access is provided.

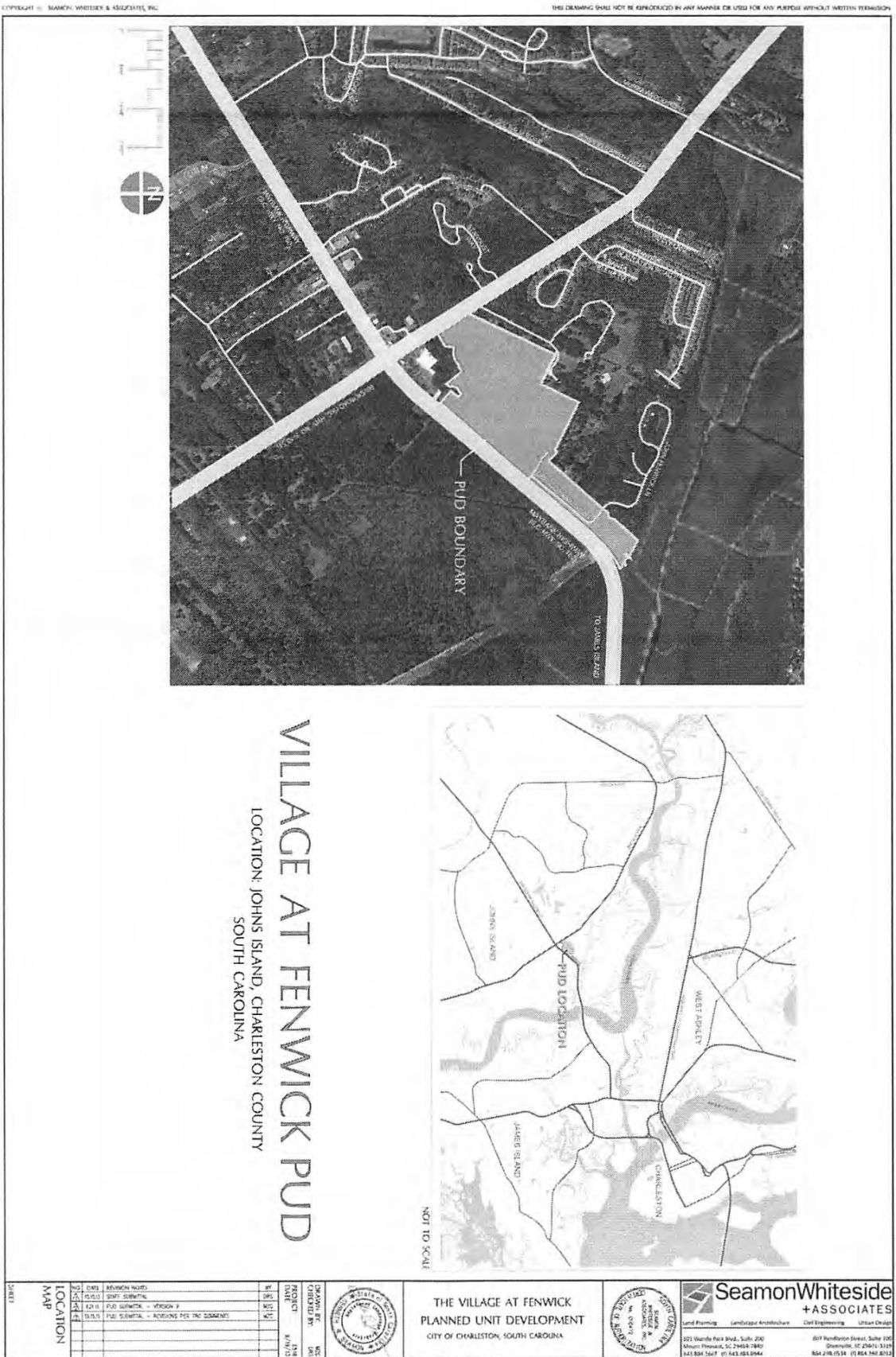
XIII. Cultural Resources

A cultural resources study for the property was completed in 2001. A copy of the full cultural resources report is on-file with the City of Charleston. A summary of the report can be found within the appendices of this document.

XIV. Appendices

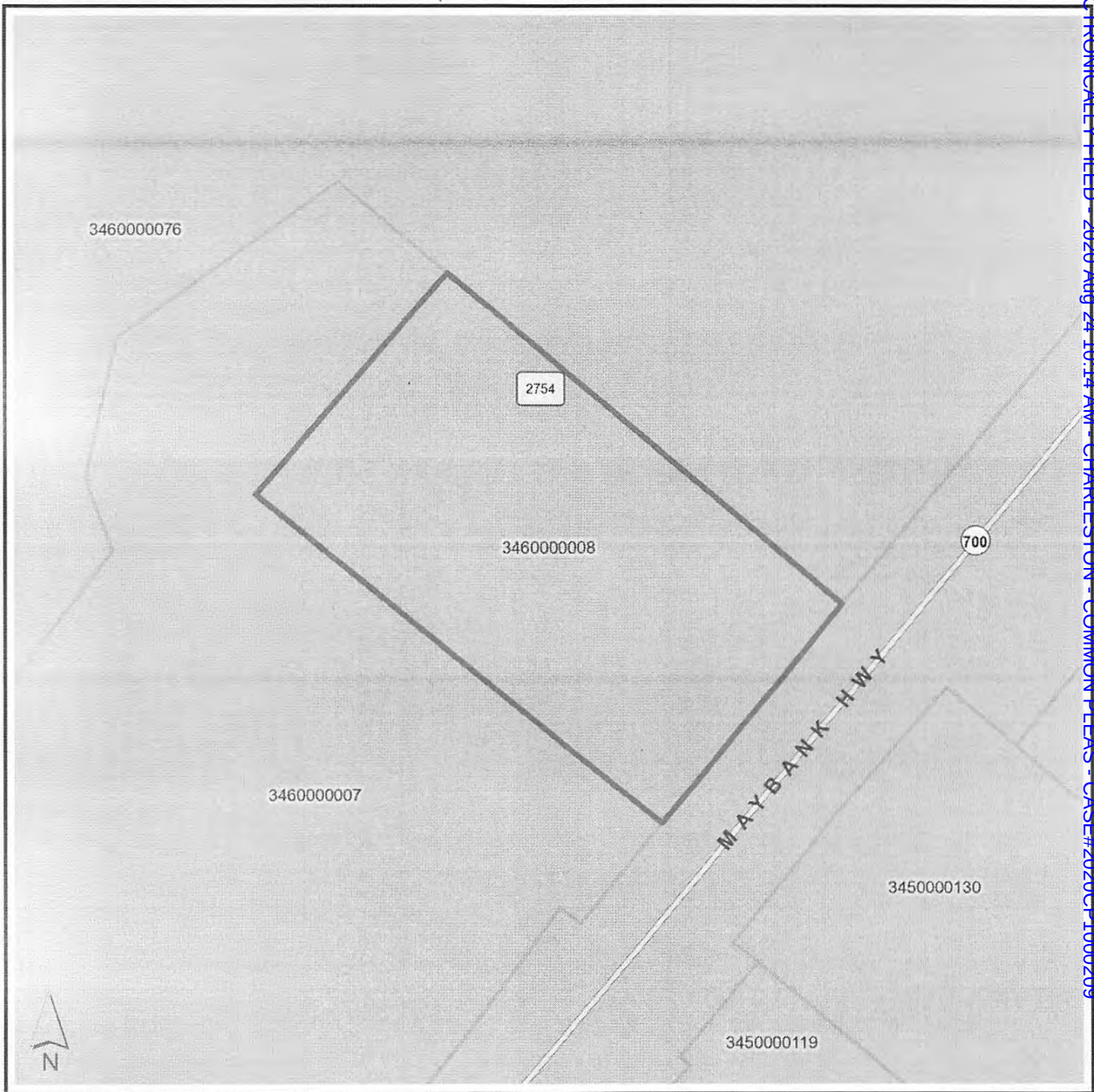
*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

APPENDIX A



*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

APPENDIX B



Village at Fenwick Plantation

Parcel ID: 3460000008

Owner1: MAYBANK 2754 LLC

Prop St Number: 2754

Prop St Name: MAYBANK

Prop Type: HWY

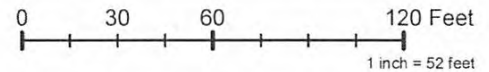
Acreage: 0.55

Class Code: 650 - SPCLTY-OFC

Plat Book Page: T-139

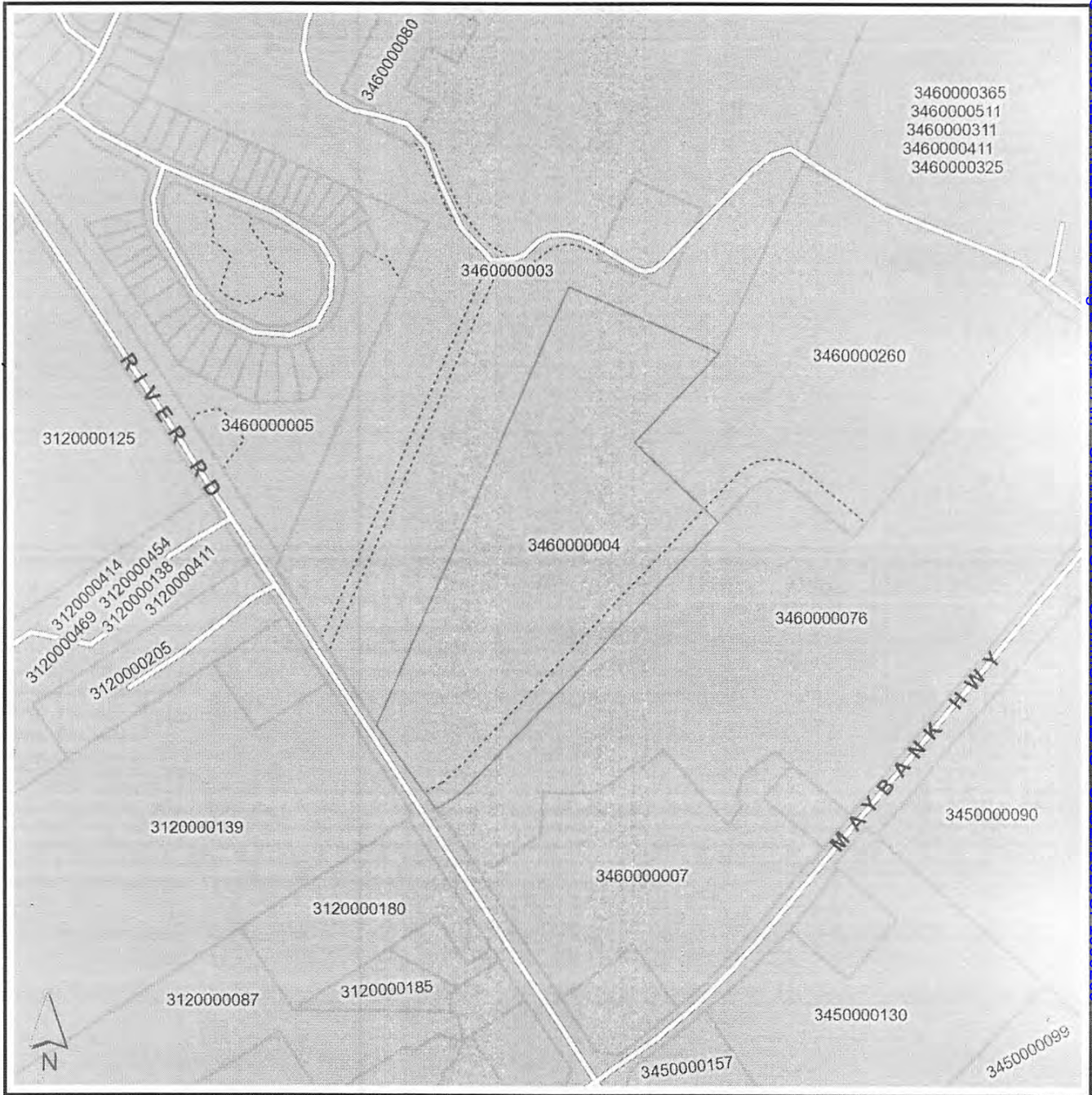
Deed Book Page: F583-757

Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 9/15/2015



Village at Fenwick Plantation

Parcel ID: 3460000004

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 0

Prop St Name: RIVER

Prop Type: RD

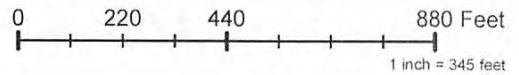
Acreage: 12.64

Class Code: 800 - AGRICULTURAL

Plat Book Page: AO-74

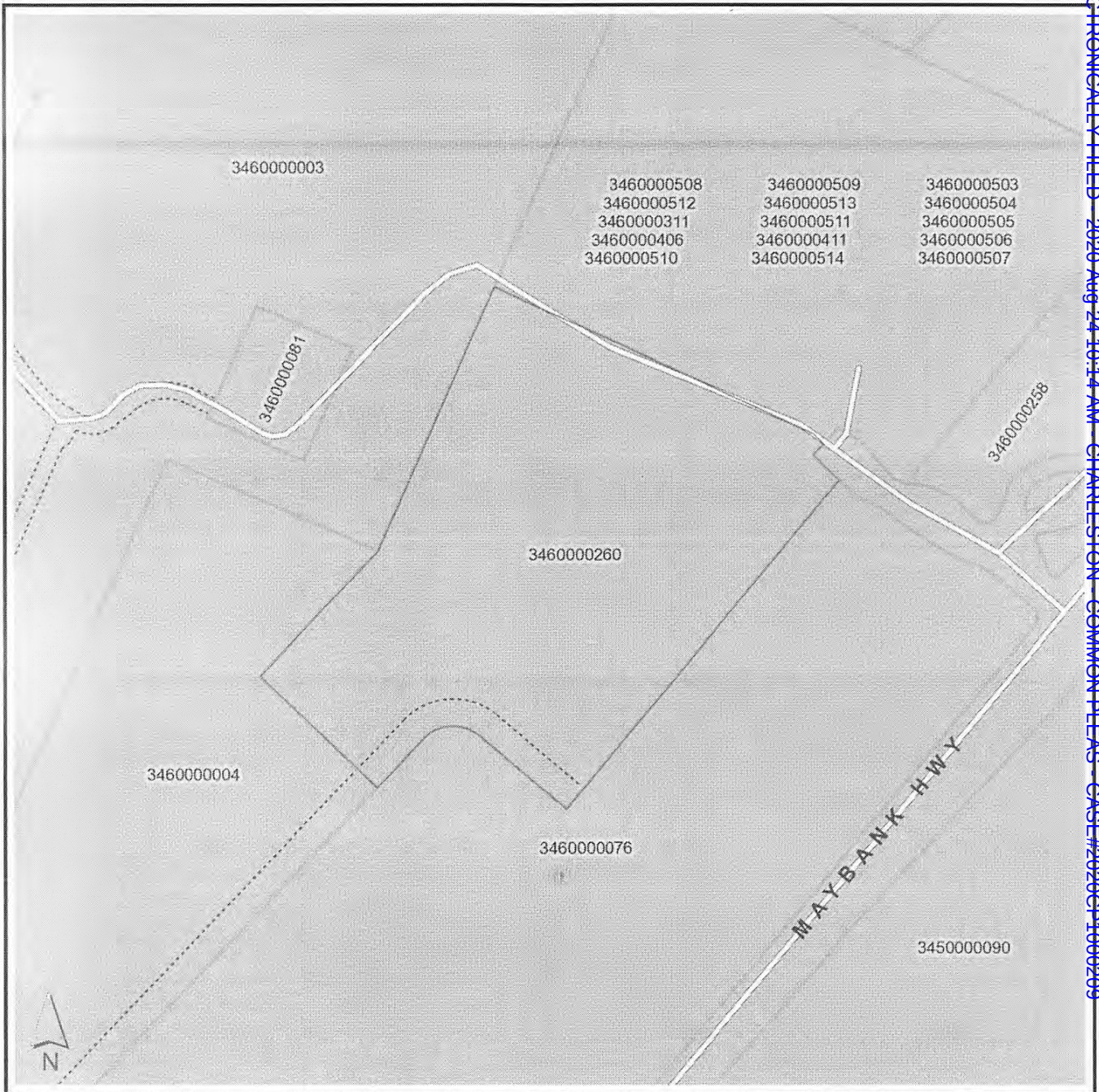
Deed Book Page: O352-691

Jurisdiction: CITY OF CHARLESTON



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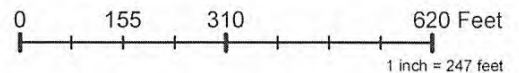
Author: Charleston County SC
Date: 8/25/2015



Village at Fenwick Plantation

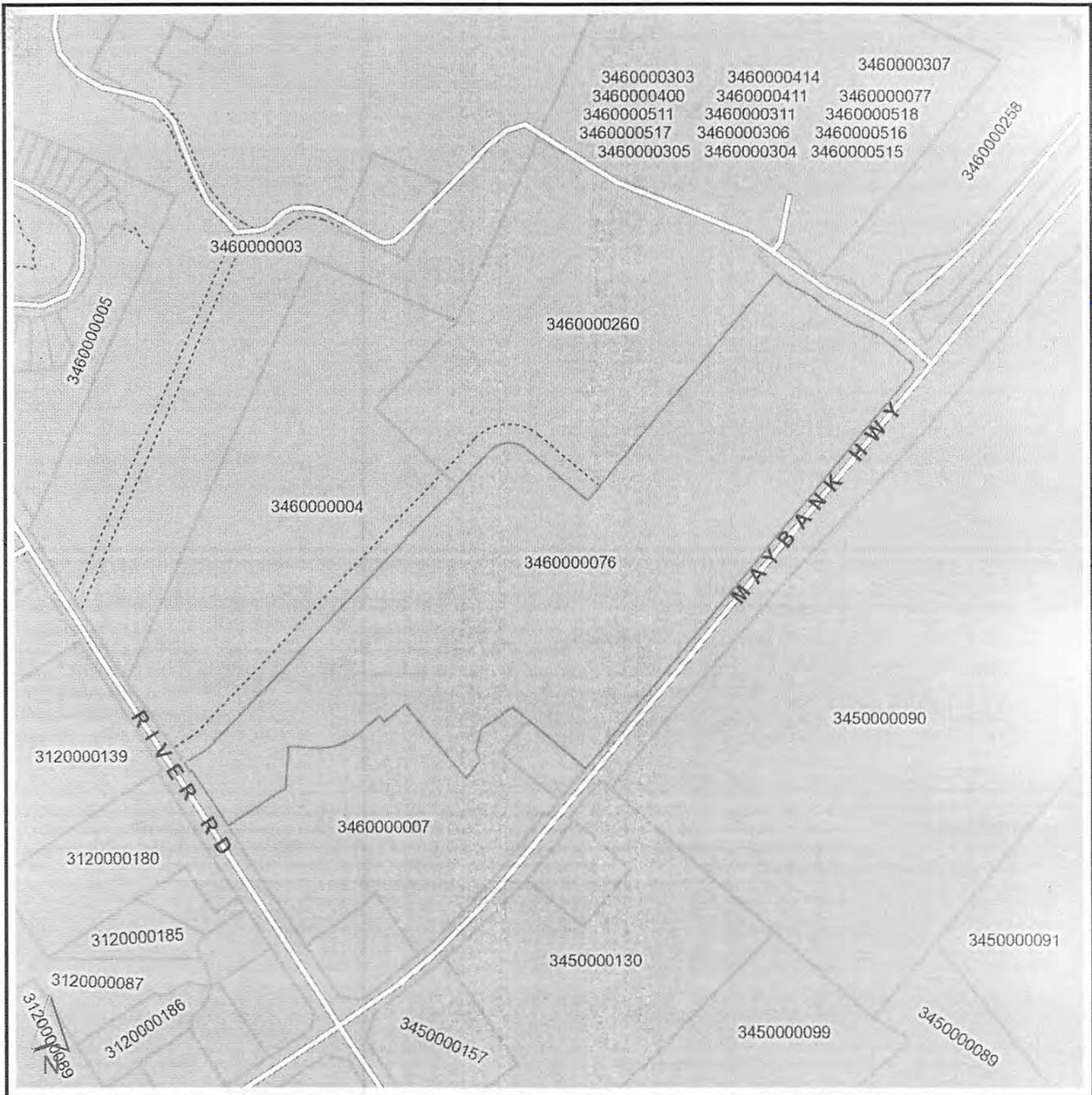
Parcel ID: 3460000260
 Owner1: FAISON-FENWICK HALL
 Prop St Number: 0
 Prop St Name: FENWICK HALL ALLEE
 Prop Type: null
 Acreage: 12.25
 Class Code: 900 - RES-DEV-ACRS

Plat Book Page: EH-903
 Deed Book Page: U537-570
 Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
 Date: 8/25/2015



Village at Fenwick Plantation

Parcel ID: 3460000076

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 0

Prop St Name: MAYBANK

Prop Type: HWY

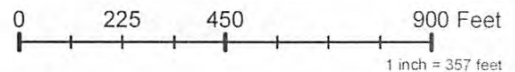
Acreage: 22.93

Class Code: 800 - AGRICULTURAL

Plat Book Page: EH-817

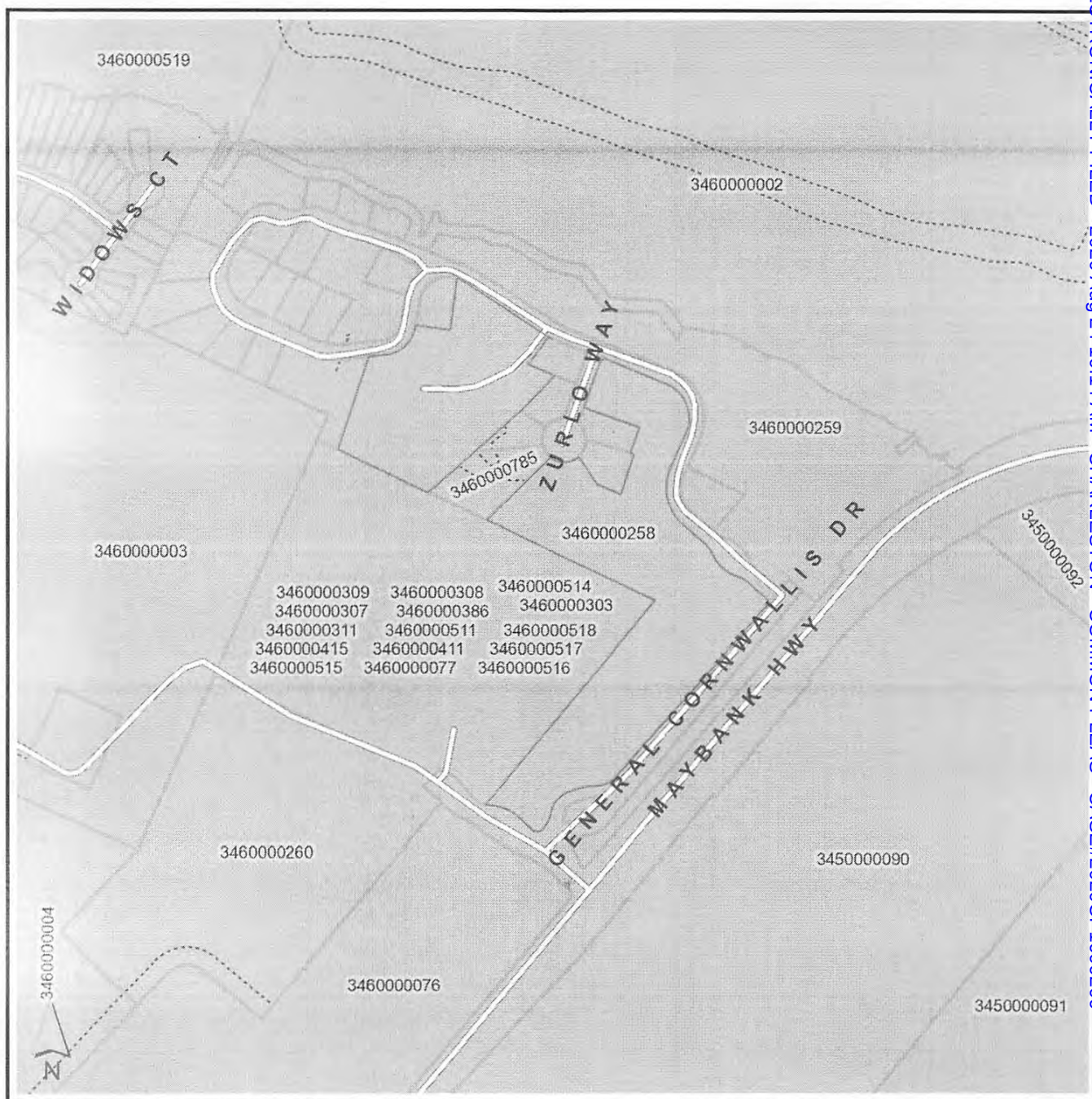
Deed Book Page: O352-691

Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 8/25/2015



Village at Fenwick Plantation

Parcel ID: 3460000258

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 0

Prop St Name: JOHN FENWICK

Prop Type: LN

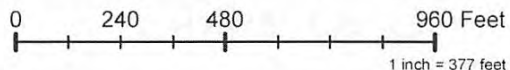
Acreage: 15.06

Class Code: 800 - AGRICULTURAL

Plat Book Page: null

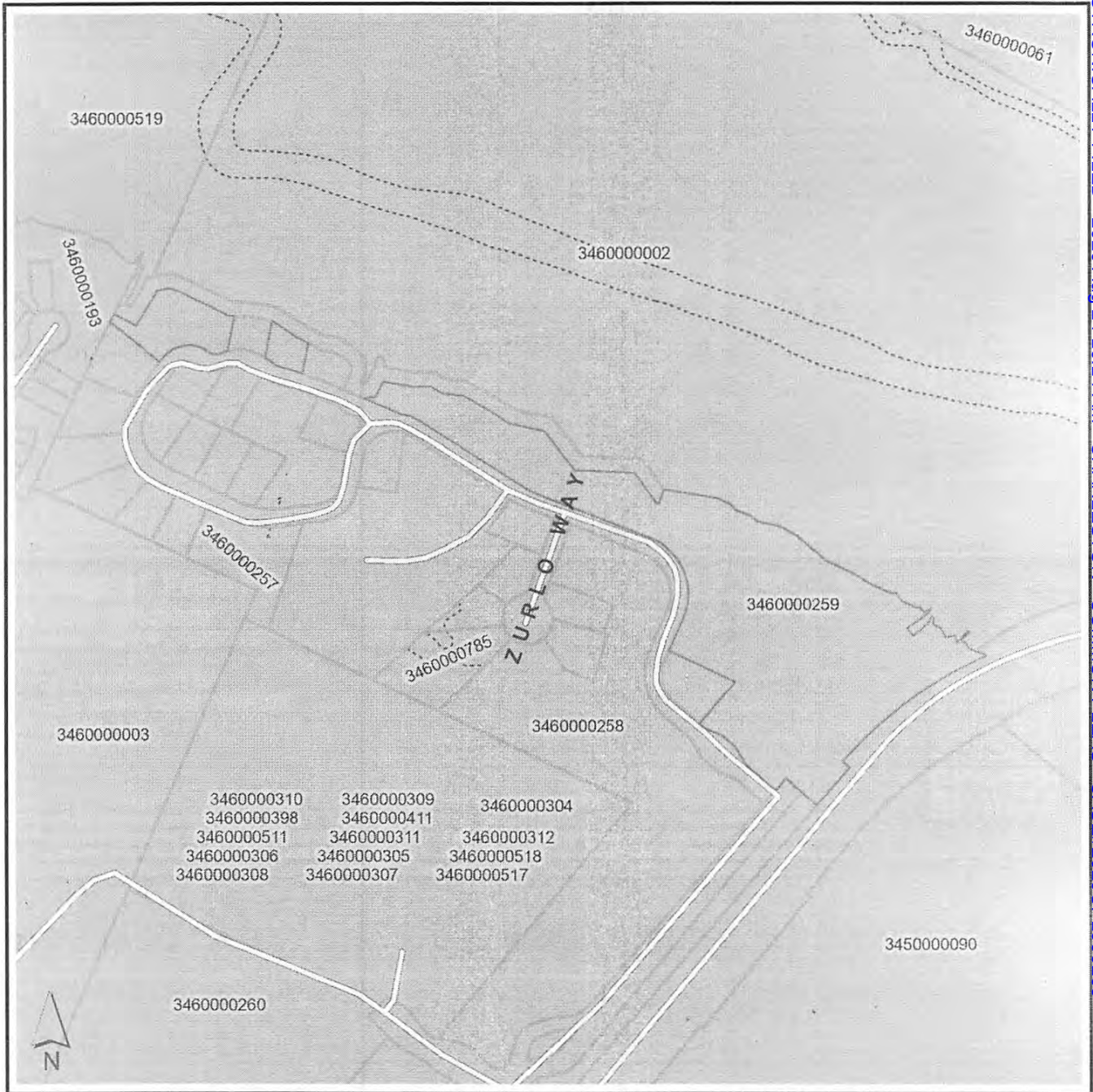
Deed Book Page: D323-439

Jurisdiction: CITY OF CHARLESTON



Note: The Charleston County makes every effort possible to produce the most accurate information. The layers contained in the map service are for information purposes only. The Charleston County makes no warranty, express or implied, nor any guaranty as to the content, sequence, accuracy, timeliness or completeness of any of the information provided. The County explicitly disclaims all representations and warranties. The reader agrees to hold harmless the Charleston County for any cause of action and costs associated with any causes of action which may arise as a consequence of the County providing this information.

Author: Charleston County SC
Date: 8/21/2015



Village at Fenwick

Parcel ID: 3460000259

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 1513

Prop St Name: JOHN FENWICK

Prop Type: LN

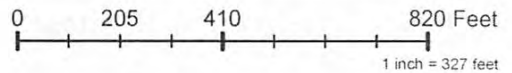
Acreage: 9.76

Class Code: 800 - AGRICULTURAL

Plat Book Page: XXX-L100154

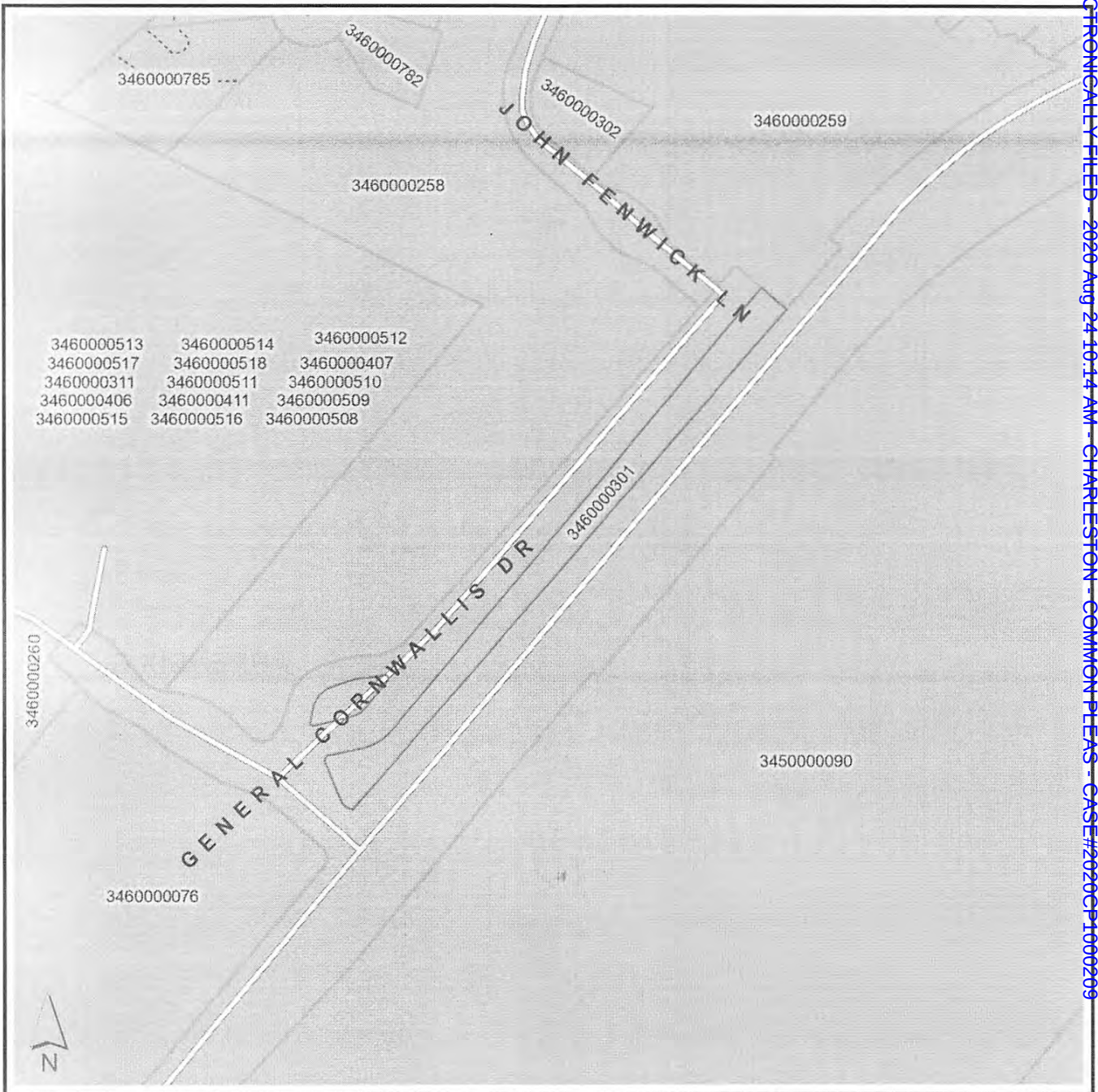
Deed Book Page: D323-439

Jurisdiction: CITY OF CHARLESTON



Note: The Charleston County makes every effort possible to produce the most accurate information. The layers contained in the map service are for information purposes only. The Charleston County makes no warranty, express or implied, nor any guaranty as to the content, sequence, accuracy, timeliness or completeness of any of the information provided. The County explicitly disclaims all representations and warranties. The reader agrees to hold harmless the Charleston County for any cause of action and costs associated with any causes of action which may arise as a consequence of the County providing this information.

Author: Charleston County SC
Date: 8/21/2015



Village at Fenwick

Parcel ID: 3460000301

Owner1: FENWICK HALL PLANTATION

Prop St Number: 0

Prop St Name: JOHN FENWICK

Prop Type: LN

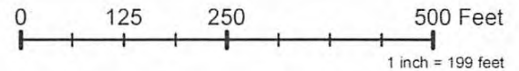
Acreage: 1.31

Class Code: 990 - UNDEVELOPABLE

Plat Book Page: EJ-722

Deed Book Page: F583-397

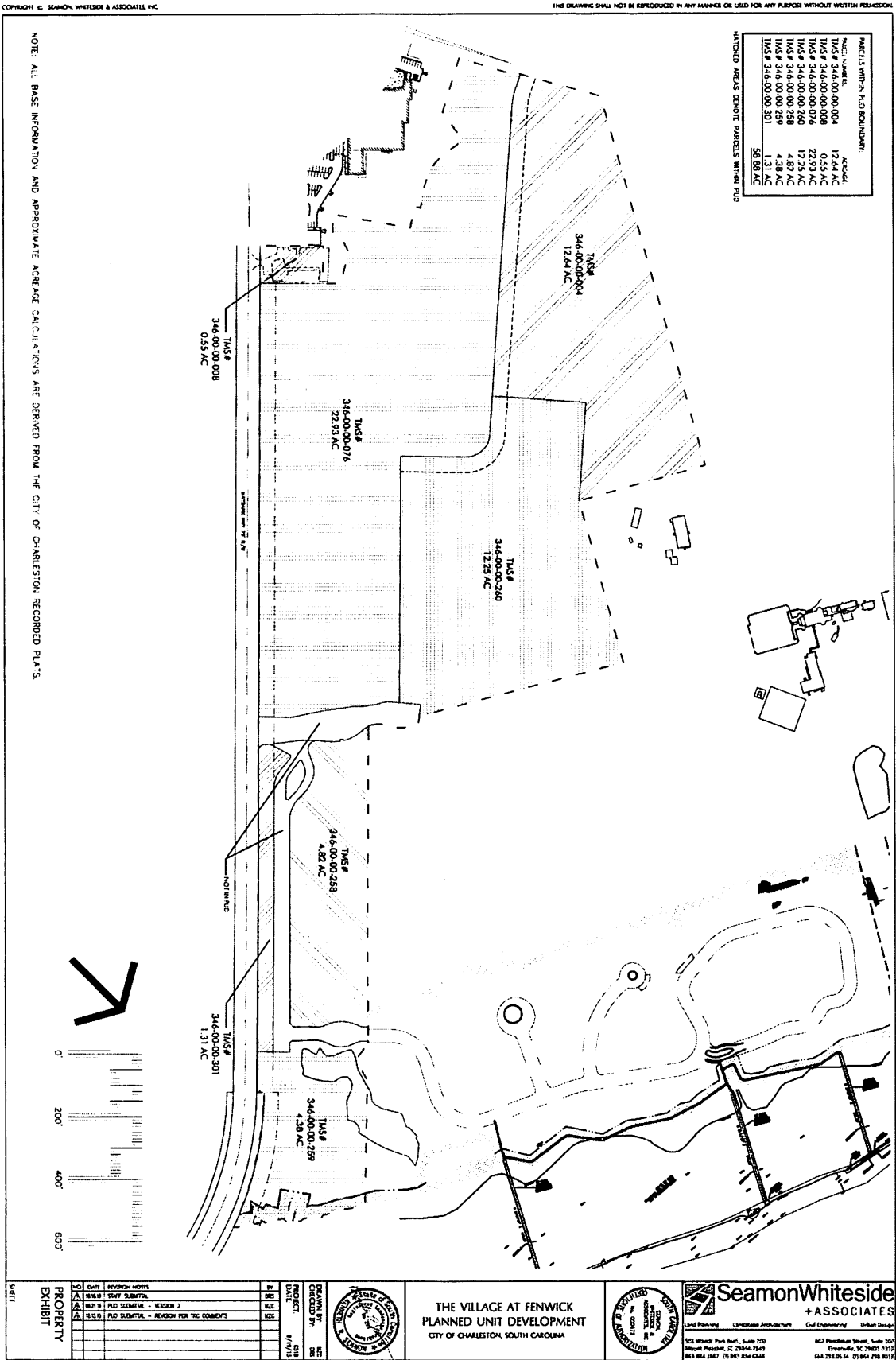
Jurisdiction: CITY OF CHARLESTON



Note: The Charleston County makes every effort possible to produce the most accurate information. The layers contained in the map service are for information purposes only. The Charleston County makes no warranty, express or implied, nor any guaranty as to the content, sequence, accuracy, timeliness or completeness of any of the information provided. The County explicitly disclaims all representations and warranties. The reader agrees to hold harmless the Charleston County for any cause of action and costs associated with any causes of action which may arise as a consequence of the County providing this information.

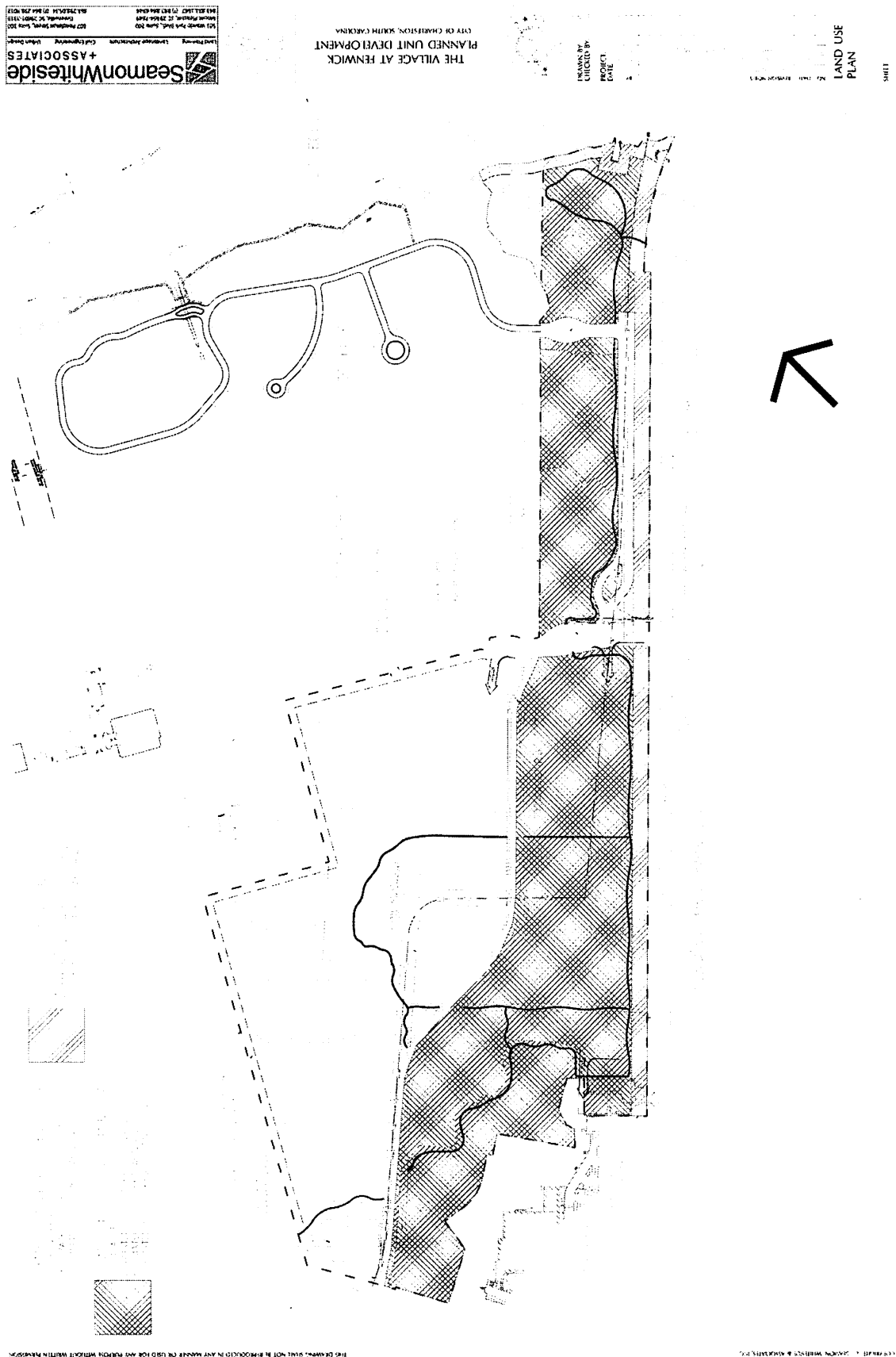
Author: Charleston County SC
Date: 8/21/2015

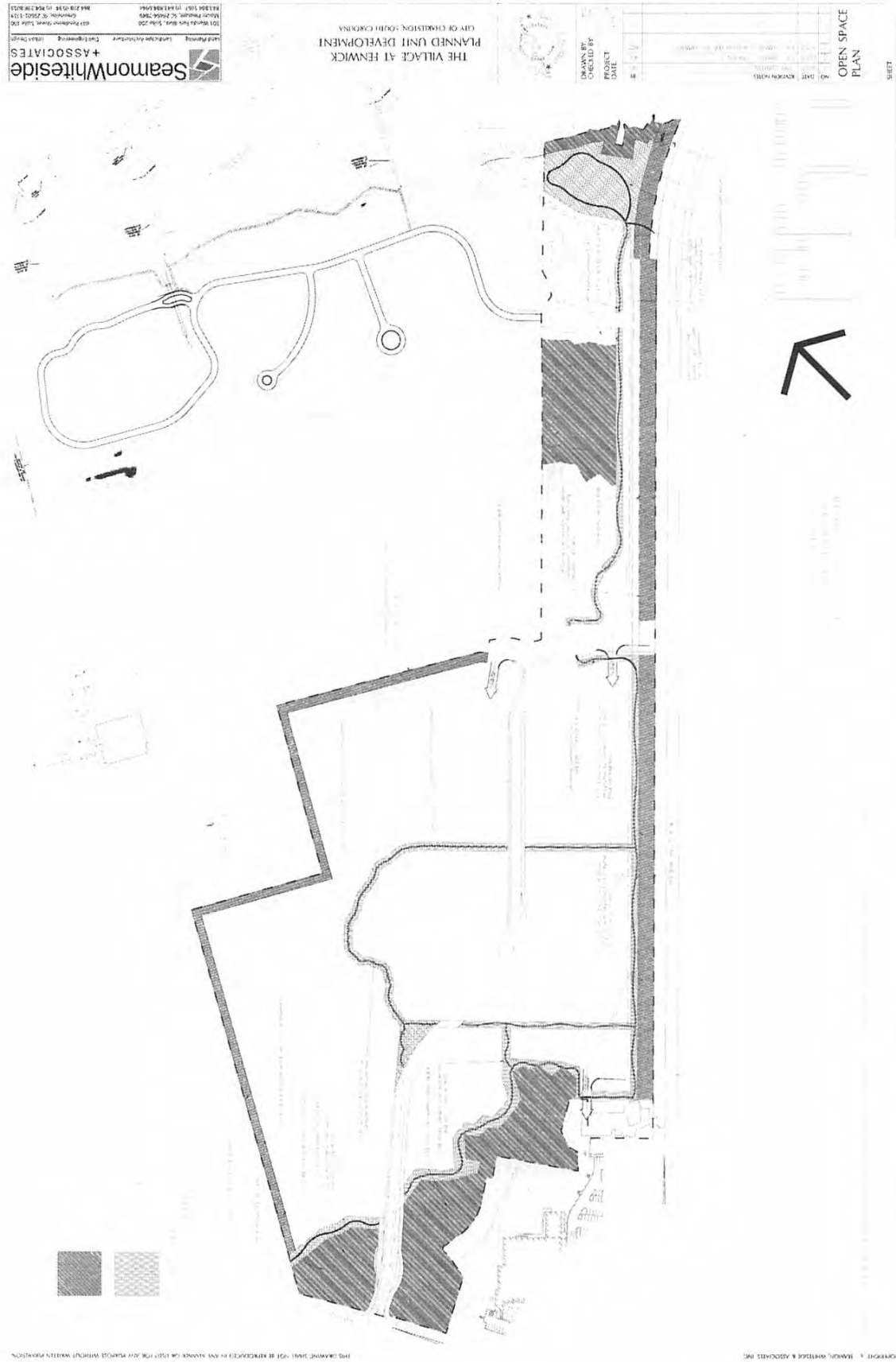
APPENDIX C



*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

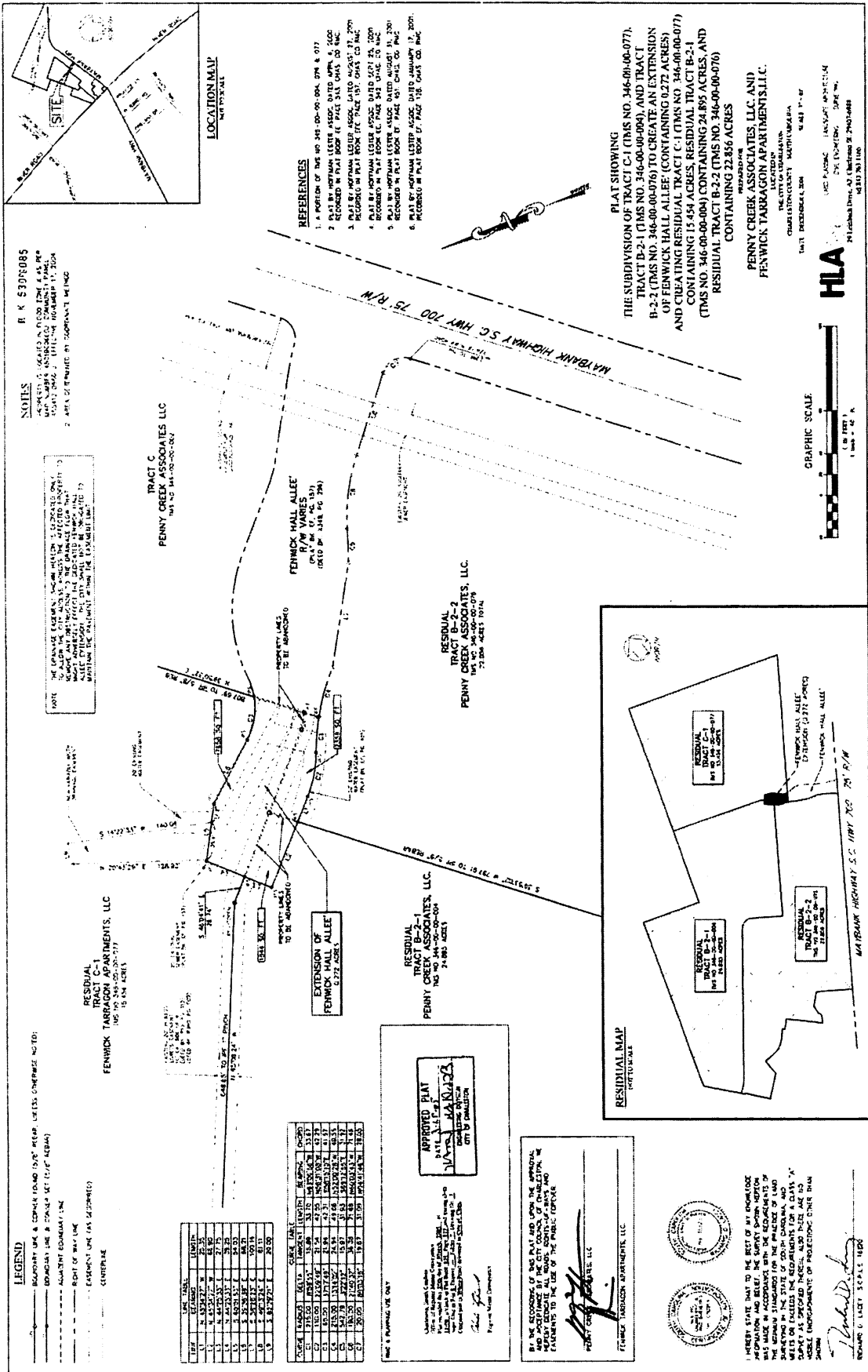
APPENDIX D

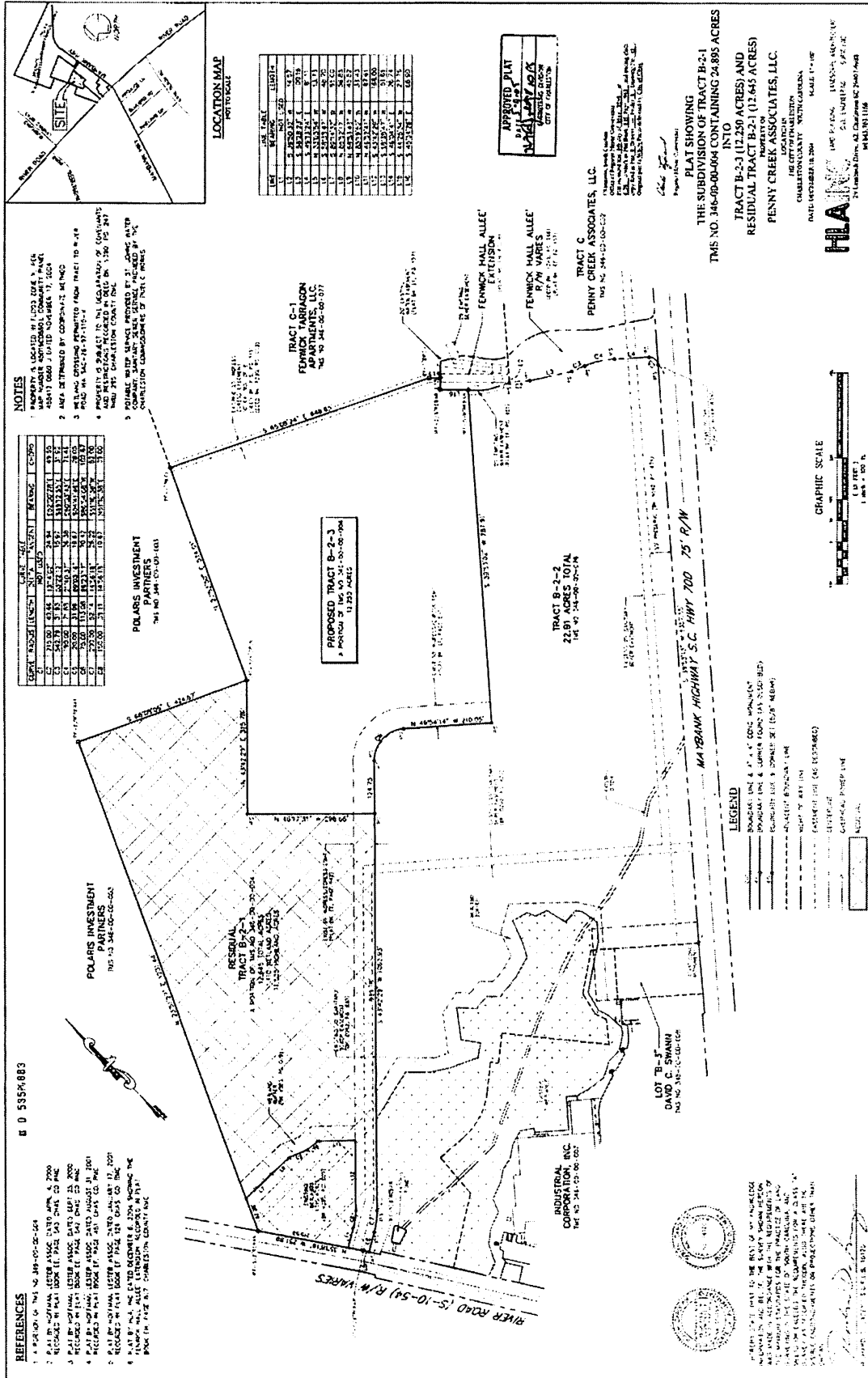


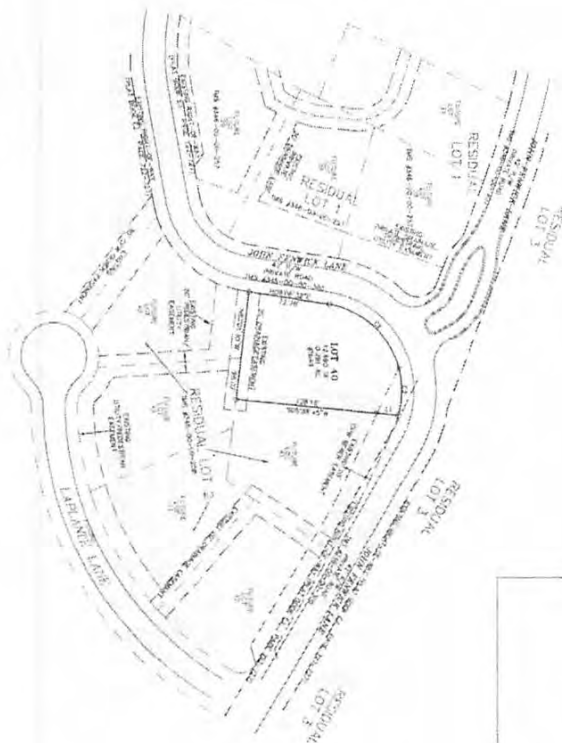


*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

APPENDIX E







15.00	1	1.00	2.00	5	11
20.00	1	2.00	4.00	10	20
25.00	1	3.00	6.00	15	30
30.00	1	4.00	8.00	20	40
35.00	1	5.00	10.00	25	50
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60.00	1	10.00	20.00	50	100
65.00	1	11.00	22.00	55	110
70.00	1	12.00	24.00	60	120
75.00	1	13.00	26.00	65	130
80.00	1	14.00	28.00	70	140
85.00	1	15.00	30.00	75	150
90.00	1	16.00	32.00	80	160
95.00	1	17.00	34.00	85	170
100.00	1	18.00	36.00	90	180
105.00	1	19.00	38.00	95	190
110.00	1	20.00	40.00	100	200
115.00	1	21.00	42.00	105	210
120.00	1	22.00	44.00	110	220
125.00	1	23.00	46.00	115	230
130.00	1	24.00	48.00	120	240
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160.00	1	30.00	60.00	150	300
165.00	1	31.00	62.00	155	310
170.00	1	32.00	64.00	160	320
175.00	1	33.00	66.00	165	330
180.00	1	34.00	68.00	170	340
185.00	1	35.00	70.00	175	350
190.00	1	36.00	72.00	180	360
195.00	1	37.00	74.00	185	370
200.00	1	38.00	76.00	190	380
205.00	1	39.00	78.00	195	390
210.00	1	40.00	80.00	200	400
215.00	1	41.00	82.00	205	410
220.00	1	42.00	84.00	210	420
225.00	1	43.00	86.00	215	430
230.00	1	44.00	88.00	220	440
235.00	1	45.00	90.00	225	450
240.00	1	46.00	92.00	230	460
245.00	1	47.00	94.00	235	470
250.00	1	48.00	96.00	240	480
255.00	1	49.00	98.00	245	490
260.00	1	50.00	100.00	250	500
265.00	1	51.00	102.00	255	510
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275.00	1	53.00	106.00	265	530
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285.00	1	55.00	110.00	275	550
290.00	1	56.00	112.00	280	560
295.00	1	57.00	114.00	285	570
300.00	1	58.00	116.00	290	580
305.00	1	59.00	118.00	295	590
310.00	1	60.00	120.00	300	600
315.00	1	61.00	122.00	305	610
320.00	1	62.00	124.00	310	620
325.00	1	63.00	126.00	315	630
330.00	1	64.00	128.00	320	640
335.00	1	65.00	130.00	325	650
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445.00	1	87.00	174.00	435	870
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465.00	1	91.00	182.00	455	910
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475.00	1	93.00	186.00	465	930
480.00	1	94.00	188.00	470	940
485.00	1	95.00	190.00	475	950
490.00	1	96.00	192.00	480	960
495.00	1	97.00	194.00	485	970
500.00	1	98.00	196.00	490	980
505.00	1	99.00	198.00	495	990
510.00	1	100.00	200.00	500	1000

$$\frac{0.00125 \text{ mol/L} \times 0.0200 \text{ L}}{0.0200 \text{ L} + 0.0200 \text{ L}} = 0.000625 \text{ mol/L}$$
[illegible]

GRAPHIC SCALE

0 50 100

0 1/2 1

1 inch = 500 ft

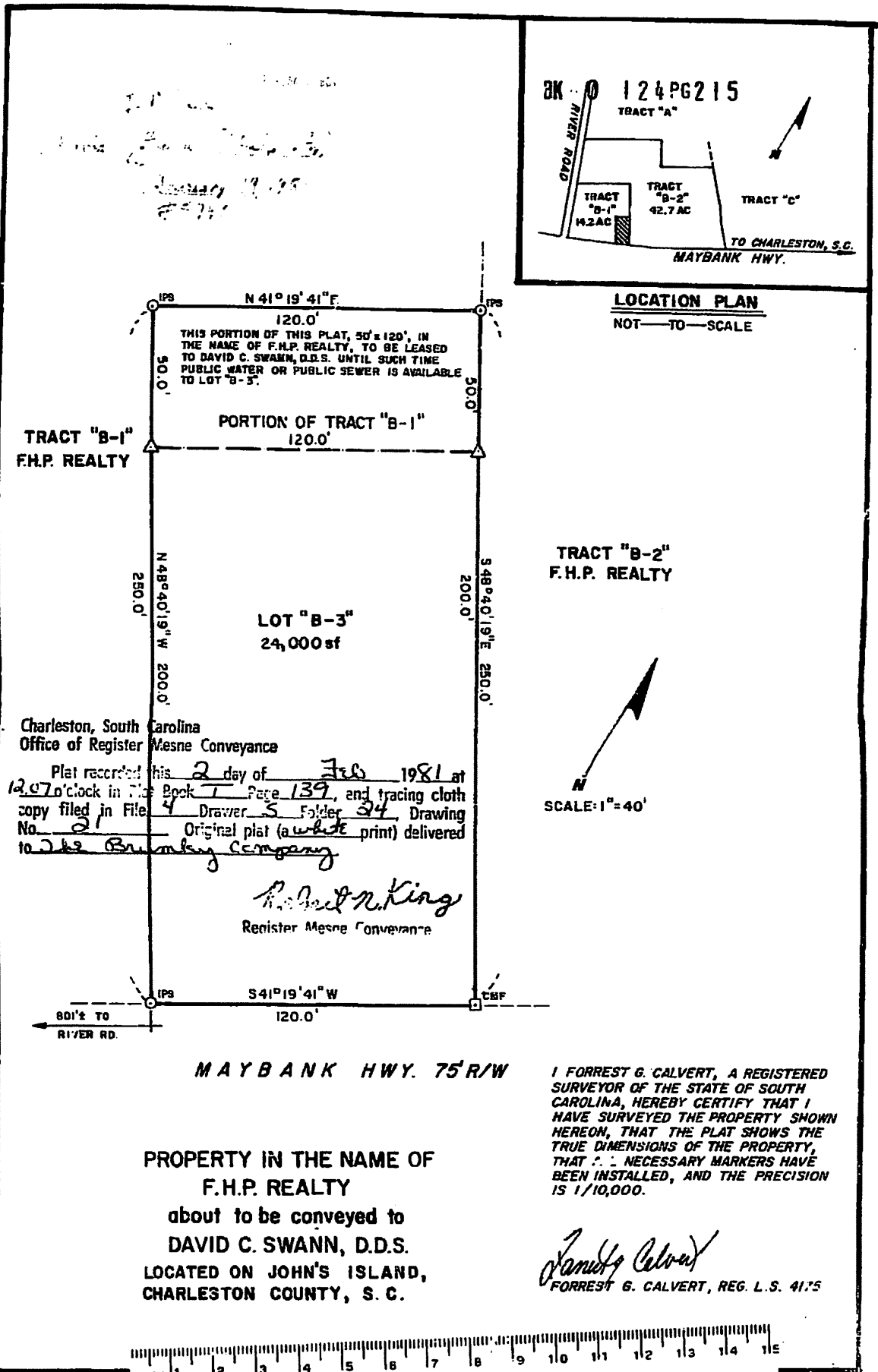
[illegible]

**Southeastern
Surveying**
OF CHARLESTON, INC.

2025 EXECUTIVE HWY. S.W. CHARLESTON, SC 29405
843-799-9330 FAX 803-2002 www.sss-ai.com

[illegible]





STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

RESTRICTIVE COVENANTS

WHEREAS, FHP Realty Company is the owner of the following described property, containing various zoning classifications of Conservation (C), DR-9 (Diverse Residential), GB (General Business) and General Office (GO) as fully described in the Zoning Ordinance of the City of Charleston, South Carolina; and,

WHEREAS, FHP Realty Company (hereinafter sometimes called Owner), has determined it to be in its best interest that its land be developed in an orderly manner, and in an effort to assure the same, has determined to place restrictive covenants on lands identified as assessor's Tax Map #346-00-00-04 in the County of Charleston, South Carolina and described as follows:

(See attached)

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that FHP Realty Company in full furtherance of its interests in assuring orderly development of its land does hereby declare that the portion of the above referenced property comprising forty-two and seven-tenths (42.7) acres, more or less, is and shall be held transferred, sold, conveyed, given, purchased, leased, occupied and otherwise disposed of and used subject to the following Covenants and Restrictions, which will run with the land:

- 1) A fifty (50) foot wide preserve shall be maintained along the frontage of Maybank Highway and shall be developed in accordance with the zoning classification of Conservation (C) as defined under the of the Zoning Ordinance of City of Charleston, South Carolina.
 - a) Within six (6) months of the recording of these covenants a certified plat shall be prepared establishing the preserve of mature trees having a diameter of twelve (12) inches or more, measuring three feet above the ground of the fifty (50) foot wide preserve.
 - b) No person shall cut, remove, thin, in any way damage, or create any condition injurious to a tree shown on the plat. The preserve shall not be developed for parking and no structure shall be erected thereon (except for signage and lighting).
 - c) Any development of the preserve shall be guided by a tree survey locating all trees over twelve (12) inches caliper (measured three [3] feet above the ground) by genus and species with grade elevations at the base of the trunk. The survey shall be prepared at a scale not less than one (1) inch equals twenty (20) feet (1"=20') and presented to the Planning and Zoning Commission.

- d) The Planning and Zoning Commission shall review petitions to cut, remove, trim, in any way damage, or create any condition injurious to a tree having a diameter of twelve (12) inches or more, measured three (3) feet above the ground. The commission shall base its decision on whether the public and private benefit that will result from granting the petition outweighs the public and private benefit derived from denying the petition.
- 2) The property commencing at a point at the western most corner on Maybank Highway and continuing to a point four hundred fifty (450) feet east, parallel to the right-of-way of Maybank Highway and to a depth of seven hundred (700) feet north of the preserve shall be developed in accordance with the zoning classification of GB (General Business) as defined under the of the Zoning Ordinance of City of Charleston, South Carolina. The remaining 966 feet of property immediately north of the preserve zoned Conservation (C) and adjacent to the west of the property zoned GB (General Business) and to a depth of three hundred fifty (350) feet shall be developed in accordance with the zoning classification of General Office (GO) as defined under the of the Zoning Ordinance of City of Charleston, South Carolina.
- 3) The balance of the forty-two and seven-tenths (42.7) acres is given a zoning classification of DR-9 (Diverse Residential) allowing for multi-family use limiting the average density to nine (9) dwelling units per acre of highland.
- 4) Access to this property will be limited to two (2) points of entry from Maybank Highway and one (1) point of entry on River Road, lining up with the access to the west with assessor's Tax Map #312-00-00-139. In addition to the curb cuts described above, the owners shall create an access road intersecting with Maybank Highway at a location east of the five-tenths (.5) acre parcel known as assessor's Tax Map #346-00-00-08 and aligning with a similarly designed access road on the south side of Maybank Highway.

Additionally, the owner shall preserve the avenue of oaks found along the eastern property line and work with adjacent property owners to create a major point of entry that could provide access to the office development fronting on Maybank Highway and the residential development.
- 5) All development site plans shall be submitted and approved by the appropriate staff agencies of the City of Charleston.
- 6) These restrictive covenants shall be binding upon the Owner, its heirs, successors and assigns, and the restrictions contained herein shall run with the land. Any violation or attempted violation of any of the covenants or terms hereof may be enforced by the City Council of the City of Charleston in an action at law or in equity against the person or persons or corporations or other entity violating or attempting to violate any restrictive covenants, either to prevent such violation from occurring or to require the specific performance hereof; PROVIDED, HOWEVER, no violation of these restrictive covenants shall result in a forfeiture or reversion of title, notwithstanding any other provision of this instrument.
- 7) No amendment to these restrictive covenants shall be had unless the same has been approved by the record owners of the parcel subject to the amendment and by the City Council of the City of Charleston; PROVIDED, HOWEVER, that the City Council shall only approve an amendment to these covenants in such manner as provided by applicable city ordinances for amendment of the zoning maps then in effect at the time of the proposed amendment.

IN WITNESS WHEREOF, we have hereunto set our hands and seals as of
this 28th day of October, 1986.

WITNESS:

FHP REALTY COMPANY

Mary Jane Miller BY: Eugene C. Santos
Sandra L. Reed Eugene C. Santos, Partner

Mary Jane Miller BY: Sherman Yaborough
Sandra L. Reed Sherman Yaborough, Partner

STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

PROBATE

Personally appeared before me Mary Jane Miller who being duly
sworn deposes and says that he/she saw Eugene C. Santos, Partner of FHP
Realty Company, sign the within Restrictive Covenants and that he/she along
with Sandra L. Reed witnessed the execution
thereof.

Sworn to me this 28th day of October, 1986.

Sandra L. Reed
Notary Public
My Commission Expires: MY COMMISSION EXPIRES 11-25-1995

STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

PROBATE

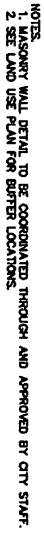
Personally appeared before me Mary Jane Miller who being duly sworn deposes and says that he/she saw Sherman Yarborough, Partner of FHP Realty Company, sign the within Restrictive Covenants and that he/she along with Sandra G. Reed witnessed the execution thereof.

Sworn to me this 28th day of October, 1986.

Sandra G. Reed
Notary Public
My Commission Expires: MY COMMISSION EXPIRES 11-25-1995

*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

APPENDIX F

1128



BUFFERS

10/13/15

This PUD agreement between Fenwick Hall Planation [John Pernell] and Penny Creek Associates is to state clearly the required buffers along west side of the south Allee of Oaks leading to Maybank Highway and also the buffer along the property line between Fenwick Hall running east to west and the PUD. [The plantation buffer shall run from the new gate noted below and extend to the west property line to the edge of wetlands.]

- Attached drawings "rear and front allee buffers" dated 9/19/15 from SWA,
- These buffers will become part of the approved PUD, therefore will be restricted via each and every deed.
- The HOA will have full and complete responsibility to not only maintain the buffers but to enforce them as well.
- It is acknowledged that buffers are to be installed and landscaping complete prior to any home construction in the PUD neighborhood.
- Upon installation it shall be the HOA's duty to maintain and enforce the buffers.

GATES AGREEMENT

Two [2] gates are to be installed, one at each end of the Allee of Oaks running from the end of Fenwick Allee [a public street], to the north end at the property line of Fenwick Hall Plantation

The south gate will be simple painted wooden plantation style gate, the north gate at the property line shall be iron with brick columns. Both gate designs to be submitted to the Fenwick Plantation HOA for approval prior to proceeding.

Penny Creek Associates agrees to reimburse all material cost for the south gate, as soon as invoices are submitted.

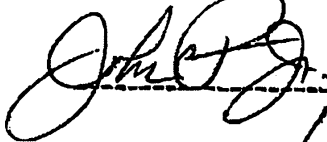
It is acknowledged that a contribution shall be made to the owners of Fenwick Hall in the amount of \$30,000 by the neighborhood PUD developers. This shall be used toward the cost of the north gate [at the plantation property line].

This contribution shall be in place prior to any construction activity on the new neighborhood development.

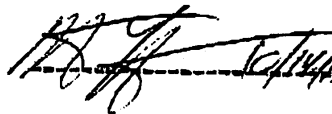
It is acknowledged that the maintenance of the Allee of Oaks shall be by the owners of Fenwick Hall.

Acknowledged and Approved

Fenwick Hall Plantation
John Pernell

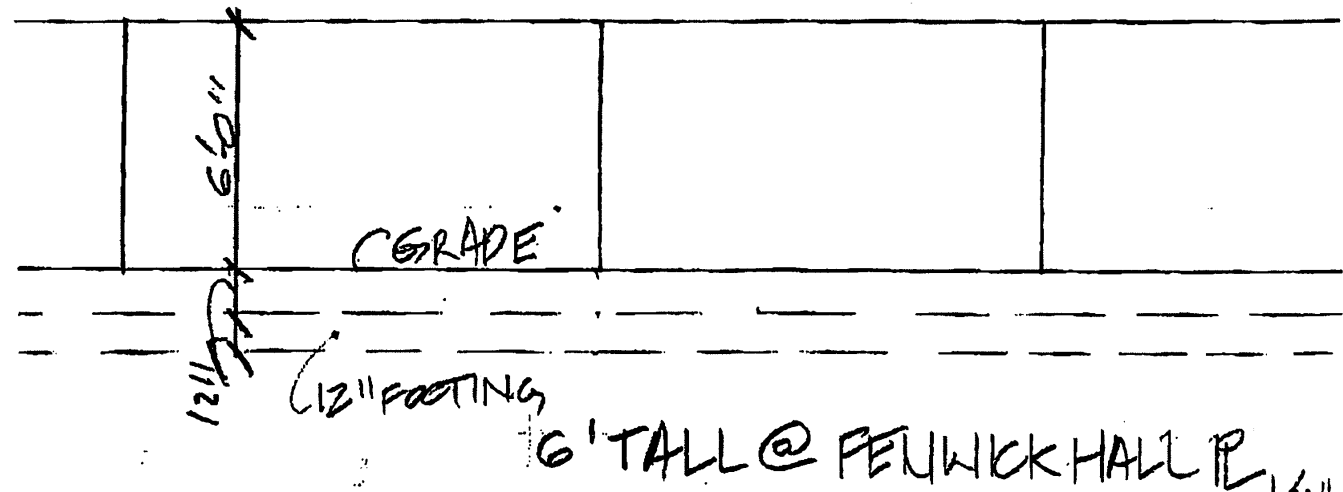
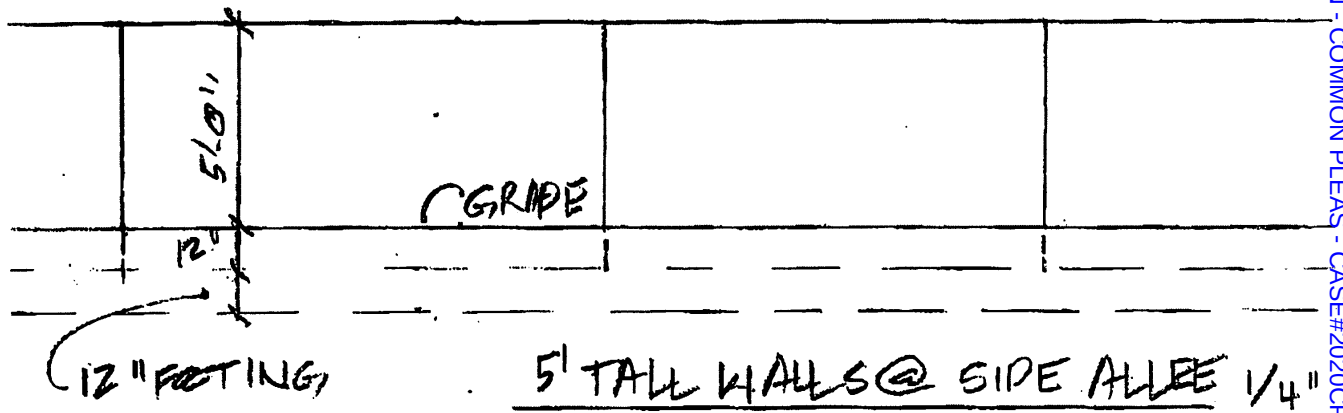
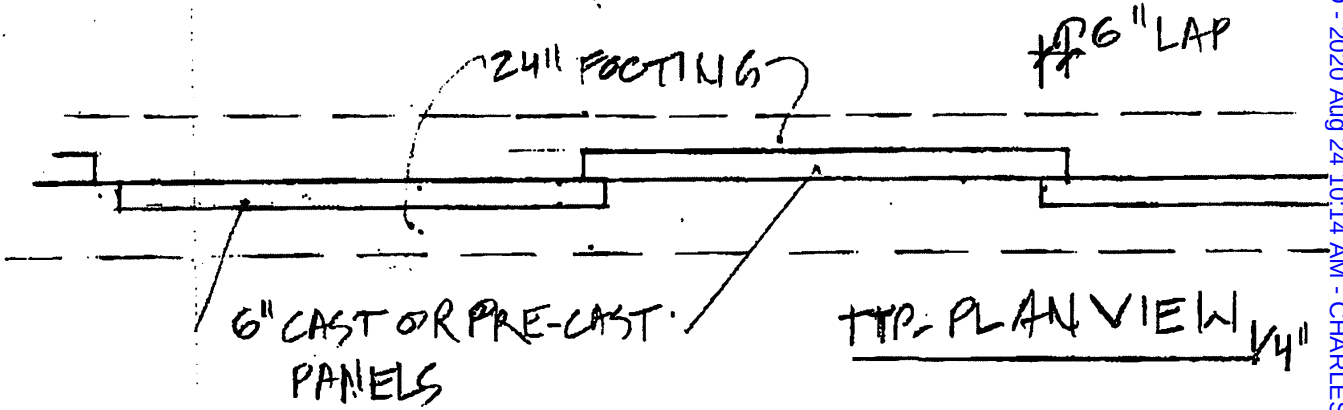
 date
10-14-15

Penny Creek Associates
Mitch Laplante

 date
10/14/15

FENWICK VILLAGE P.L.D. BUFFER COURTYARD WALLS

10/13/15

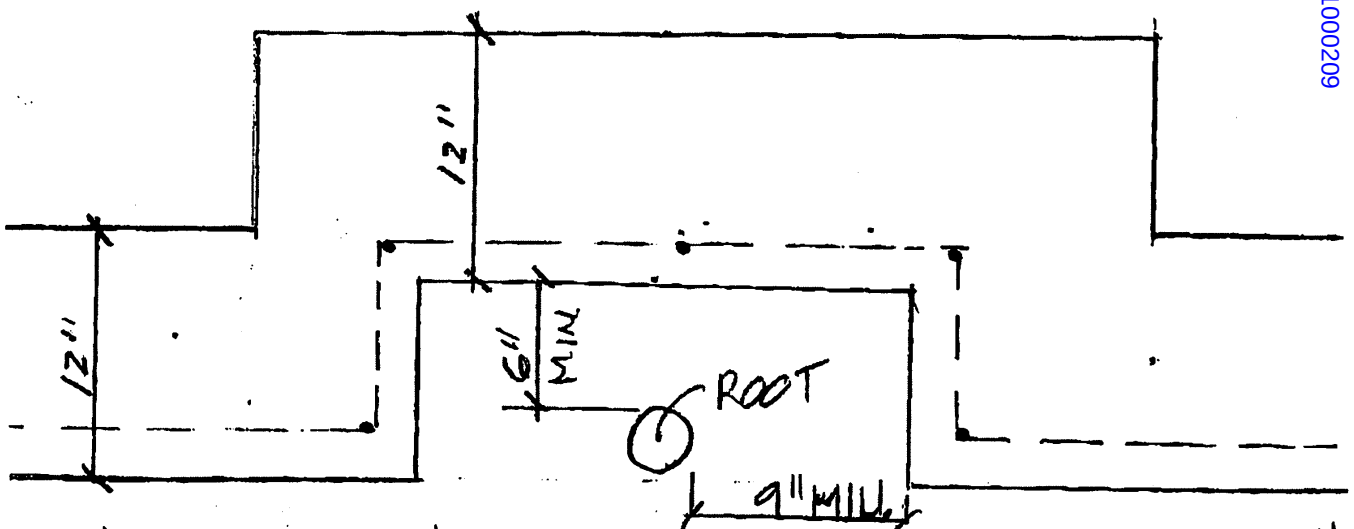
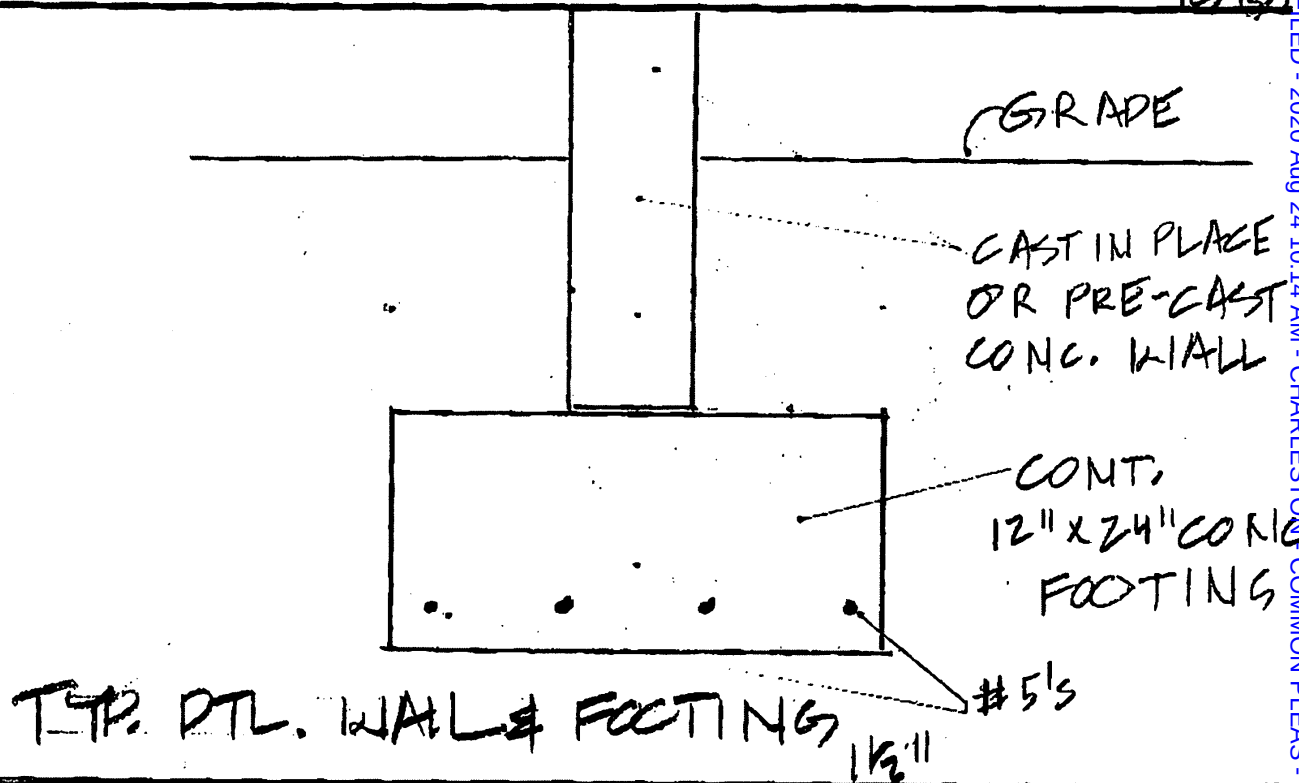


2002

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FENWICK VILLAGE P. U. D. BUFFER COURTYARD WALL DETAILS

10/13/1



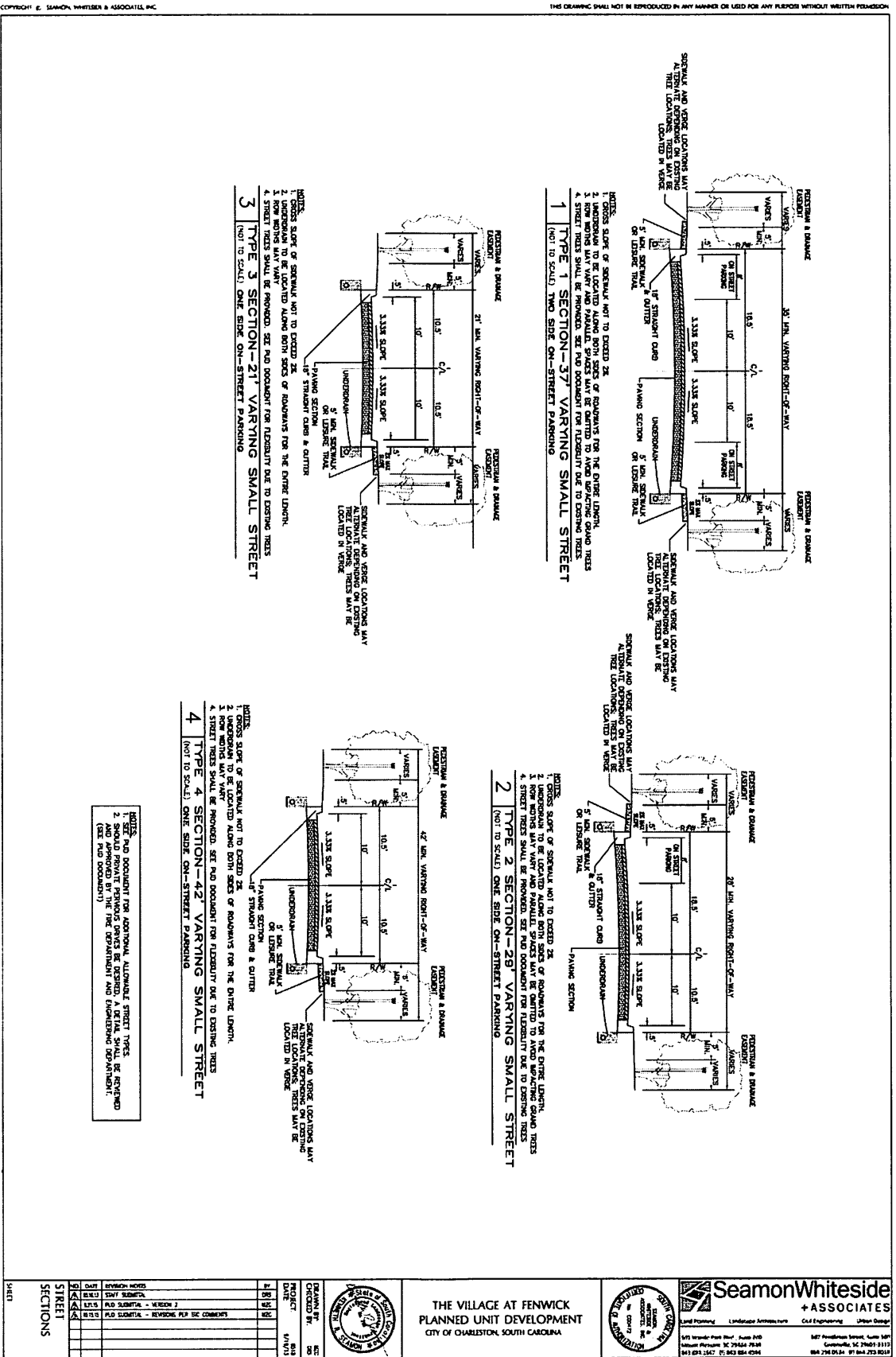
HALINCHED FOOTING @ ALL ROOTS > 4"

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*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

APPENDIX G

THE DRAWING SHALL NOT BE REPRODUCED IN ANY MANNER OR USED FOR ANY PURPOSE WITHOUT WRITTEN PERMISSION



*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

APPENDIX H

Sec. 54-317. - Required number of off-street parking spaces by land use.

- a. Minimum number of parking spaces required. Table 3.3 indicates off-street parking requirements for land uses. All calculations shall be rounded up to the next whole number. The total parking requirement for mixed uses shall be the sum of the requirement for each use, except that "shopping center" developments, as defined in Table 3.3, shall be exempt from this requirement. Parking spaces required for one use shall not be used to satisfy the parking requirement for another use with the exception of churches, synagogues or other places of worship. Additional parking for bicycles shall be required for certain land uses pursuant to Section 54-320. For the purposes of this Section, "peninsula" shall mean the area of the City of Charleston bounded by the Cooper River to the east, the Ashley River to the west and south, and the Charleston City Limits to the north.
- b. Maximum area of paved parking spaces and aisles allowed for surface parking lots. The maximum number of hard surfaced parking spaces allowed for a shopping center development, as defined in Table 3.3, shall not exceed the total number of spaces required pursuant to this section, increased by 20 percent. All spaces and appurtenant aisles in excess of this 20 percent cap, or areas within the parking lot equivalent in size to the number of excess parking spaces multiplied by 450 square feet, shall be non-hard surfaced utilizing slag, gravel, ROC, grasscrete, or similar porous material or simply a grass field.

TABLE 3.3: OFF-STREET PARKING REQUIREMENTS

USE		NUMBER OF SPACES REQUIRED
RESIDENTIAL:		
-	One (1) family detached dwelling	2 per unit
	One (1) family attached dwelling & mobile home	
-	Two (2) family dwelling	2 per unit
-	Multiple (3 or more) dwellings or dwellings (one or more) within commercial bldgs.	1½ per unit
-	Boarding house	1 per 2 bedrooms
-	Dormitory, sorority or fraternity house	1 per 2 beds
-	Nursing home, homeless shelter, orphanage, sanitarium, boarding home for sheltered care; where above uses are communal living with central dining room	1 per 6 beds
-	Special needs housing; housing restricted by funding agencies, public housing agencies, or	1 per 3 dwelling units

	other such organizations, to elderly, handicapped individuals or families, or low income occupants based on current income limits established by the U.S. Department of Housing and Urban Development	
-	Affordable housing	1 per 4 dwelling units
ACCOMMODATIONS:		
-	Accommodations uses, except bed and breakfasts	2 per 3 sleeping units
-	Bed and breakfasts	1 per bed and breakfast unit
-	RV parks	1 per trailer accommodation or "hook-up"
INSTITUTIONAL AND COMMUNITY SERVICE:		
-	High schools (grades 9-12)	1 per each 4 seats in the main assembly hall plus 1 for each classroom
-	Preschool, kindergarten, elementary and junior high schools (grades preschool through 8)	2 spaces for each employee
-	Day care centers	2 per employee
-	Church, synagogue, place of worship (other than on the peninsula)	1 per 4 seats design capacity of the principal place of worship; 80 percent of the required spaces may be provided at an off-site public or private parking lot which is accessory to another use not open or operating during the time of weekend services and within 400 feet of the place of worship. Written permission from owner of lot indicating times parking is to be permitted shall be submitted to zoning administrator prior to approval.

-	Church, synagogue, place of worship (on the peninsula)	1 per 8 seats design capacity of the principal of the principal place of worship with off-site parking allowed same as above.
-	Funeral home, mortuary, crematorium	1 per 4 seats in sanctuary or 1 per 2 employees whichever is greater.
-	Health care facility;	1 per 2 beds
	Hospital, accessory uses	
-	Health care facility;	1 per employee plus 1.5 per outpatient treatment room.
	Ambulatory care, clinic, accessory uses	
-	Laboratory, research facility	1 per 2 employees
-	Place of public assembly auditorium, stadium, community center, theater	1 per 6 seats or patrons (based on maximum occupancy etc. as allowed by Building Code)
-	Trade School, College, Institution of higher learning and accessory uses to such facility except dormitory, sorority, and fraternity housing	1 per 100 square feet of total classroom space
-	Library	3 per 1000 square feet of interior floor area.
BUSINESS, ENTERTAINMENT AND OFFICE:		
-	Art gallery (non-retail), museum (on the peninsula)	1 per 600 square feet (excluding storage)
-	Art gallery (non-retail), museum (all other areas)	1 per 400 square feet (excluding storage)
-	Automobile repair garage	1 per 2 employees at maximum employment on a single shift plus 1 per 150 square feet of automobile repair space.

-	Office, professional and public buildings bank (on the peninsula)	1 per 500 square feet (excluding halls, stairwells, storage/elevator shafts and bathrooms)
-	Office, professional and public buildings, bank (all other areas)	1 per 240 square feet (excluding halls, stairwells, storage/elevator shafts and bathrooms)
-	Restaurants; sit down establishments serving food and beverage (on the peninsula)	1 per 150 square feet of inside patron use area (excluding bathrooms), and 1 per 200 square feet of outside seating area if available.
-	Restaurants, sit down establishments serving food and beverage (all other areas)	1 per 90 square feet of inside patron use area (excluding bathrooms), and 1 per 200 square feet of outside seating area if available.
-	Restaurant, fast food, take-out and/or express prepared food delivery only	1 per 75 square feet of inside patron use area, plus 1 per square feet of outside seating area if available.
-	Restaurant, drive-thru with no use area	1 per employee at maximum shift inside patron plus 1 per delivery vehicle plus 1 per 250 square feet of outside seating area.
-	Retail and personal service establishments not including food stores (on the peninsula)	1 per 400 square feet of gross floor area.
-	Retail and personal service establishments not including food stores (all other areas)	1 per 200 square feet of gross floor area
-	Gas stations with convenience stores	In addition to one space for each pump facility, one per 400 square feet of floor area
-	Food stores (off-peninsula)	1 per 300 square feet of floor area
-	Food stores (on-peninsula)	1 per 400 square feet of floor area
-	Car wash (full service)	2 per bay/stall plus 1 space per employee
-	Car wash (self serve)	1 per washing module

-	Retail specialty stores selling only furniture, or large appliances, or carpet, or lumber, or or plants, or other specific types of household furnishings	1 per 400 square feet of total floor area excluding storage areas plus 1 per store delivery vehicle.
-	Shopping center - a commercial development which includes one or more retail type uses listed in this table. The total floor area must equal 20,000 square feet or more, in one or more buildings, on one or more lots which are designed and laid out to function as an interrelated development, as evidenced by both shared driveways and parking.	1 per 200 square feet leasable floor area for the first 20,000 total square feet. 1 per 250 square feet for 20,001 to 140,000 total leasable square feet. 1 per 300 square feet for total leasable square feet over 140,001.
-	Mini warehouse, self storage warehouse facility	1 space per 6,000 square feet of net leaseable square footage of warehouse space, or fraction thereof, with up to half the required spaces and associated driveway areas permitted to remain unmarked for trucks and other large vehicles to park and maneuver.
-	Dry cleaners, laundry services	1 per 300 square feet of customer use area plus 2 per 3 employees at maximum employment on a single shift.
-	Private club, fraternal lodges, country clubs	1 per 3 persons allowed by Building Code in the main assembly room or auditorium.
INDUSTRIAL:		
-	Manufacturing, wholesale, or other industrial establishments not catering to retail trade	1 per 2 employees at maximum employment on employment on a single shift plus 1 per company vehicle.
RECREATIONAL:		
-	Recreational facilities (on the peninsula)	1 per 8 patrons based on occupancy limit as determined by Building Code or based on design capacity.

-	Recreational facilities (other areas)	1 per 4 patrons based on occupancy limit as determined by Building Code or based on design capacity.
-	Marinas	1 per 4 dry slips
		1 per 2 wet slips
-	Driving range	1 per tee plus 1 per employee at maximum employment on a single shift.
-	Golf Course	2 per tee plus 1 per employee at maximum employment on a single shift.
-	Bowling alleys	5 per alley
-	Health club	1 per 400 square feet of total floor area.

(Ord. No. 1998-76, § 3, 4-28-98; Ord. No. 2002-92, § 7, 8-13-02; Ord. No. 2004-70, § 1, 7-20-04; Ord. No. 2006-428, § 9, 9-26-06; Ord. No. 2007-214, § 1, 11-20-07; Ord. No. 2014-130, §§ 2-4, 10-14-14)

*Planned Development Guidelines
Village at Fenwick
October 29, 2018*

APPENDIX I



October 16, 2013

Anna Lewis
Permitting Coordinator
501 Wando Park Boulevard, Suite 200
Mount Pleasant, South Carolina 29464

Re: TMS# 346-00-00-004, 008, 076, 258 & 260 / Charleston County, SC

Dear Mrs. Lewis:

This letter will verify that South Carolina Electric and Gas Company has sufficient electrical and natural gas capacity to serve the referenced tracts above. Electric and gas service will be provided in accordance with SCE&G's General Terms and Conditions, other documents on file with the South Carolina Public Service Commission, and the Company's standard operating policies and procedures.

Please contact me at 843-576-8447 if you have any questions or if I may be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven M. Morillo".

Steven M. Morillo
Customer Service Engineering



October 16, 2013

Village at Fenwick Plantation
Charleston, SC 29455

RE: TMS: 4346-00-00-004, 008, 076, 258 & 260

To Whom It May Concern:

This letter is to confirm that Comcast Cable is the franchised video service provider for the new location of Village at Fenwick Plantation Charleston, SC. Upon execution of a property-specific agreement, the terms of which will be negotiated separately, Comcast can and will extend its cable plant to the property so that the residents there will have access to Xfinity Video, High-Speed Data, and Digital Voice services.

Depending on cost to extend the plant, the owner may be asked to bear some of the cost of cable plant construction.

Should you have any additional questions, please contact me at 843-266-3094.

Best Regards,

Andy Mcilwain
Business Development Account Executive
Comcast of South Carolina, Inc.
4400 Bell Oaks Drive
North Charleston, SC 29405
(843) 266-3094 office
Andrews_mcilwain@comcast.com



To:
Cc:
Bcc:
Subject: Fw: TMS #346-00-00-004, 008, 076, 258 & 260

From: RALPH WATKINS <ralph_watkins@charleston.k12.sc.us>
To: Anna S Lewis <ALewis@seamonwhiteside.com>,
Cc: Bill Lewis <william_lewis@charleston.k12.sc.us>
Date: 10/16/2013 08:32 AM
Subject: Re: TMS #346-00-00-004, 008, 076, 258 & 260

The site is in the Angel Oak ES, Haut Gap Middle, and St John's High School attendance zone. Seats will be made available to residents of the project. We will send a formal letter as soon as possible. Do you have a rough idea of when the site will be fully built out?
V/r, rw

--

Ralph Watkins, PE
Facilities Planner
Capital Programs Department
Charleston County School District
3999 Bridge View Drive
North Charleston, SC 29405
Ph. 843-566-1983
Fax 843-746-1374
Excellence is Our Standard

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

Plaintiff,

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; ET. AL.;

Defendants,

/

PLAINTIFF'S MOTION TO AMEND COMPLAINT

Plaintiff, MAYBANK 2754, LLC, by and through the undersigned attorney, subject to the disposition of the pending appeal (Court of Appeals Case number 2020-001030), and while maintaining the pending appeal and also its objection to having any matter heard by the Master-in-Equity, hereby moves before the presiding judge of the Court of Common Pleas for the entry of an order permitting the Plaintiff to amend its Complaint pursuant to 15(a), South Carolina Rules of Civil Procedure, and in support states as follows:

Under Rule 15(a), SCRCP, a party may amend his pleading by leave of court and "leave shall be freely given when justice so requires and does not prejudice any other party." Rule 15(a), SCRCP. Rule 15 "strongly favors amendments and the court is encouraged to freely grant leave to amend." *Patton v. Miller*, 420 S.C. 471, 489, 804 S.E.2d 252, 261 (2017). This Court should grant leave for Plaintiff to file an amended complaint because justice requires it and the Defendants will not be prejudiced. The reasons for the amendment are to add an additional party, to add an additional count for declaratory judgment, to better allege and demonstrate its claims by, in part, information and documents obtained through discovery thus far, and to remove the count for a temporary injunction. The motion is based upon applicable law and any memoranda or affidavits that may be submitted in connection with the hearing on this matter. The proposed Verified Amended Complaint has been filed contemporaneously herewith.

WHEREFORE, Plaintiff respectfully requests that the Court enter an order permitting the proposed Verified Amended Complaint and deeming it filed, and for such further relief as this Court deems proper and just.

Pursuant to Rule 11, the undersigned counsel has communicated with opposing counsel and has attempted in good faith to resolve the matter contained in the motion. A true and correct copy of correspondence sent to opposing counsel is attached hereto and incorporated herein as an exhibit.

Respectfully submitted,

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510
jason@tarokhlaw.com

s/ Jason M. Tarokh
JASON M. TAROKH
S. CAROLINA BAR # 72837

August 24, 2020

Subject: Maybank 2754, LLC v. Eugene J. Zurlo, etc., et. al.; Charleston County Court of Common Pleas Case # 2020-CP-10-00209

Date: Wednesday, July 8, 2020 at 2:20:12 PM Eastern Daylight Time

From: Jason Tarokh

To: Peeler, Miriam A., Alexandra H. Austin, Esq., Blake McKie, Esq., Brian A. Hellman, Esq., Cheryl D. Shoun, Esq., J. Rutledge Young, Jr., Esq., Janice Prosen, Jason S. Smith, Esq., Thomas B. Pritchard, Esq.

CC: Stair, Kent T., Norris, Patrick J., Teich, Jordan N., Canaday, Jenifer L.

Attachments: image001.png, Amended.Summons.and.Amended.Verified.Complaint.pdf

Dear Counsel,

Attached please find Plaintiff's Amended Verified Complaint (without the exhibits attached). Please advise by noon on Friday, 7.10, if you consent to allowing the Amended Verified Complaint to be filed. If I don't hear from you by then, I will presume you do not consent and will file a motion.

Sincerely,

Jason

Jason M. Tarokh | Attorney
PO Box 10827 | Tampa, Florida 33679
T: 813-922-5510 | E: jason@tarokhlaw.com
www.tarokhlaw.com



Florida | South Carolina

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, YOU ARE ADVISED THAT THIS LAW FIRM MAY BE DEEMED A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED MAY BE USED FOR THAT PURPOSE.

This email, and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error, please immediately notify me at 813-922-5510 and permanently delete the original and any copy of any e-mail and any printout thereof. Thank you.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

AMENDED SUMMONS

Plaintiff,

(Jury Trial Requested)

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; 1776, LLC; BEACH FENWICK, LLC;
THE BEACH COMPANY; SEAMON, WHITESIDE
& ASSOCIATES, INC.; PENNY CREEK ASSOCIATES,
LLC; JOHN DOE AND MARY ROE; CITY OF
CHARLESTON;

Defendants,

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Amended Verified Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the Amended Verified Complaint upon the subscribers, at their office, TAROKH LAW, PLLC, PO Box 10827, Tampa, FL 33679, within thirty (30) days, after service hereof, exclusive of the day of such service; and if you fail to answer the Amended Verified Complaint in the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Amended Verified Complaint.

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510
jason@tarokhlaw.com

/s/ Jason M. Tarokh
JASON M. TAROKH
SOUTH CAROLINA BAR # 72837

July 8, 2020

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

Amended Verified Complaint

Plaintiff,

(Jury Trial Requested)

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; 1776, LLC; BEACH FENWICK, LLC;
THE BEACH COMPANY; SEAMON, WHITESIDE
& ASSOCIATES, INC.; PENNY CREEK ASSOCIATES,
LLC; JOHN DOE AND MARY ROE; CITY OF
CHARLESTON;

Defendants,

/

AMENDED VERIFIED COMPLAINT

COMES NOW THE PLAINTIFF, MAYBANK 2754, LLC, and sues the Defendants, EUGENE J. ZURLO, Individually and as Co-Trustee of the Eugene J. Zurlo Living Trust Dated December 11, 1997; 1776, LLC; BEACH FENWICK, LLC; THE BEACH COMPANY; SEAMON, WHITESIDE & ASSOCIATES, INC.; PENNY CREEK ASSOCIATES, LLC; JOHN DOE AND MARY ROE; CITY OF CHARLESTON; and alleges as follows:

General Allegations

1. Plaintiff, MAYBANK 2754, LLC (herein "Maybank"), is a limited liability company organized and existing under the laws of the State of South Carolina, and transacted business in Charleston County, South Carolina at all relevant times.
2. Defendant, EUGENE J. ZURLO, Individually and as Co-Trustee of the Eugene J. Zurlo Living Trust Dated December 11, 1997 (herein "Zurlo"), is a resident of Charleston County, South Carolina.
3. Defendant, 1776, LLC (herein "1776"), is a limited liability company organized and

existing under the laws of the State of South Carolina, and transacted business in Charleston County, South Carolina at all relevant times. Upon information and belief, the sole member of 1776, LLC, is The Eugene Zurlo Living Trust Dated December 11, 1997, in which Zurlo and his wife are its Co-Trustees.

4. Defendant, BEACH FENWICK, LLC (herein “Beach Fenwick”), is a limited liability company organized and existing under the laws of the State of South Carolina, and transacted business in Charleston County, South Carolina at all relevant times. Upon information and belief, Beach Fenwick is an affiliate and/or subsidiary of Beach Company sharing some of the same officers, directors and/or employees.

5. Defendant, THE BEACH COMPANY (herein “Beach Company”), is a corporation organized and existing under the laws of the State of South Carolina, and transacted business in Charleston County, South Carolina at all relevant times. Beach Company is also known as Beach Co., or The Beach Co. Beach Company is the manager of Beach Fenwick. John Darby is the Chief Executive Office of Beach Company and also the registered agent for Beach Fenwick.

6. Defendant, SEAMON, WHITESIDE & ASSOCIATES, INC. (herein “Seamon Whiteside”), is a corporation organized and existing under the laws of the State of South Carolina, and transacted business in Charleston County, South Carolina at all relevant times.

7. Defendant, PENNY CREEK ASSOCIATES, LLC (herein “Penny Creek”), is a limited liability corporation organized and existing under the laws of the State of South Carolina, and transacted business in Charleston County, South Carolina at all relevant times. Zurlo, as Co-Trustee of the Eugene J. Zurlo Living Trust Dated December 11, 1997, was a member of Penny Creek during all relevant times and is currently a member.

8. Upon information and belief Defendants, JOHN DOE and MARY ROE, are presently

unknown persons who are principals of one or more Defendants, and/or agents thereof, and each other, who conspired together and with one or more Defendants to defraud the Plaintiff of its easement rights as described herein.

9. Defendant, CITY OF CHARLESTON (herein "City"), is a city in Charleston County, South Carolina.

10. This Court has jurisdiction over the parties and the subject of this lawsuit.

11. Venue is appropriate in Charleston County, South Carolina.

12. The real estate that is the subject of this case (herein "Property") is described as follows:

ALL that certain piece, parcel or tract of land situate, lying and being in the City of Charleston County, South Carolina, containing 19.322 acres, more or less, and being shown as "**TRACT B-2-2 TMS 346-00-00-076 OWNER: 1776 LLC PREVIOUS ACREAGE 998,976 SF 22.933 AC NEW ACREAGE 841,688 SF 19.322 AC**" on a plat entitled "A PLAT OF A PORTION OF TMS #346-00-00-004, and -076 OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA FOR THE NORTHERN PITCHFORK ROAD" dated January 22, 2019, last revised December 4, 2019, prepared by Philip R. Bryan, Jr. S.C.P.L.S. No. 28597 of Southeastern Land Surveying LLC and recorded on December 4, 2019, in Plat Book L19, Page 0515, in the ROD Office for Charleston County, South Carolina. Said parcel having such size, shape, buttings and boundings as will more fully appear by reference to said plat.

BEING A PORTION of the property conveyed to Grantor by deed of Mikell R. Scarborough as Master-in-Equity dated August 29, 2017 and recorded August 29, 2017 at Book 0662, Page 915 in the ROD Office for Charleston County, South Carolina.

This being the same property conveyed to Beach Fenwick, LLC, by deed of 1776, LLC, recorded on December 12, 2019, in Book 0846, Page 268 in the ROD Office for Charleston County, South Carolina
Owner of the Property: Beach Fenwick, LLC

TMS# 346-00-00-076.

The Thirty (30) Foot Private Right of Way Easement on the Property

13. Maybank owns a lot adjacent to the Property. The lot has a building situated thereon

with office spaces for lease. During all material times, office space on the lot has been leased and is currently leased.

14. Until on or about October 4, 2013, Penny Creek solely owned Maybank and was the sole member of Maybank.

15. On October 4, 2013, Zurlo executed that certain Resolution of the Sole Shareholder of Penny Creek Associates, LLC (herein "Resolution"). A true and correct copy of the Resolution is attached hereto and incorporated herein as "Exhibit A".

16. Pursuant to the Resolution, Penny Creek approved the transfer of its membership interest in Maybank to individuals set forth therein (herein "Laplante Family"), and also agreed to grant to them, and their assigns, a thirty (30) foot private right of way access easement for pedestrian and vehicular ingress, egress and access to, from and over the Property, the location and condition of which to be mutually agreed upon at the completion of that certain roadway known as Pitchfork Road (herein "easement").

17. Pitchfork Road was and is intended to assist providing much needed traffic relief in the Johns Island area, which includes the Property and Maybank's adjacent lot.

18. The Resolution references a certain Contract for Assignment of Interest. A true and correct copy of the Contract for Assignment of Interest is attached hereto and incorporated herein as "Exhibit B".

19. The Contract for Assignment of Interest references and attaches as an exhibit that certain Assignment of Membership Interest and Written Consent in Lieu of a Special Meeting of the Sole Member of Maybank 2754, LLC (herein "Assignment"). A true and correct copy of the Assignment is attached hereto and incorporated herein as "Exhibit C".

20. Upon information and belief, construction plans for Pitchfork Road have been

approved by City, but Pitchfork Road has not been physically completed.

21. Pursuant to the Resolution, Contract for Assignment and Assignment, upon completion Pitchfork Road, an easement agreement to memorialize the easement would follow.

22. The easement is to be tied from Maybank's adjacent lot to Pitchfork Road once Pitchfork Road is completed.

23. The Resolution was not recorded.

24. Maybank was assigned rights to the easement.

The Derivative and Judicial Dissolution Against Penny Creek and the Foreclosure of the Property

25. Zurlo has a contentious history with Michel F. Laplante (herein "Mitch Laplante") and his family.

26. On December 16, 2013, a little over two (2) months after Zurlo executed the Resolution, Zurlo and others commenced a derivative and judicial dissolution action against Penny Creek and others in Charleston County Court of Common Pleas Case # 2013-CP-07280.

27. On August 14, 2014, approximately ten (10) months after the Zurlo executed the Resolution, a foreclosure action, the Property being a subject thereof, was commenced against Penny Creek and others by Wells Fargo Bank, N.A., in Charleston County Court of Common Pleas Case # 2014-CP-10-4946.

28. Thereafter, on or about February 29, 2016, the derivative and judicial dissolution action was settled on the record before the Court.

29. Upon information and belief, on May 19, 2016, as part of the settlement of the

derivative and judicial dissolution action, Penny Creek executed and delivered a promissory note to The Eugene J. Zurlo Living Trust Dated December 11, 1997, and secured it with a second mortgage on the Property (herein “Zurlo Note and Mortgage”).

30. On April 7, 2017, the articles of organization of 1776 were filed with the South Carolina Secretary of State.

31. On the same day 1776 was created, April 7, 2017, The Eugene J. Zurlo Living Trust Dated December 11, 1997 also assigned the Zurlo Note and Mortgage to 1776.

32. Upon information and belief, around the time of the creation of 1776, the Zurlo Note and Mortgage went into default.

33. Thereafter, 1776 intervened in the above-referenced foreclosure action and received a credit bid based on the indebtedness owned on the Zurlo Note and Mortgage.

34. Subsequently, 1776 was the winning bidder at the foreclosure sale and consequently received title to the Property by virtue of a master’s deed.

The Development of the Property

35. During the pendency of the above-referenced derivative and judicial dissolution and foreclosure action, the Property was in the process of being developed while it was still owned by Penny Creek.

36. During the pendency of the above-referenced derivative and judicial dissolution action and foreclosure action, Seamon Whiteside was hired by Penny Creek to prepare a certain planned unit development guidelines (herein “PUD”) application for the Property for submission to the City.

37. Upon information and belief, as a direct result of its involvement with the PUD application process, Seamon Whiteside acquired actual knowledge of the easement.

38. Subsequently, on January 12, 2016, the PUD was approved and ratified by the City by virtue of ordinance # 2016-005.

39. After the PUD approval, Seamon Whiteside met with Maybank in or about October 2016 to discuss developing Maybank's adjacent lot. As a result, on October 10, 2016, Seamon Whiteside sent Maybank correspondence referencing "the ability to locate some of the development program within an off-site easement within the Fenwick Village PUD" on the Property. The referenced "off-site easement" is the easement. A true and correct copy of the October 10, 2016 correspondence is attached hereto and incorporated herein as "Exhibit D".

40. Upon information and belief, sometime after 1776's acquisition of the Property, Beach Company became involved with, and assisted with, the development of the Property, including the PUD amendment process.

41. Upon information and belief, as a direct result of its involvement with the development and PUD amendment process and working with 1776, Zurlo and Seamon Whiteside for the development of the Property, Beach Company acquired actual knowledge of the easement.

42. On December 18, 2018, City approved and ratified that certain and restated Planned Unit Development Guidelines (herein "Amended PUD"), by virtue of ordinance # 2018-164. Upon information and belief, the application for the Amended PUD was submitted by or on behalf of 1776.

43. On that same day, December 18, 2018, City authorized its mayor to execute a certain development agreement between it and 1776, by virtue of ordinance # 2018-169 (herein "Development Agreement").

44. On March 18, 2019, 1776, by and through its law firm, Hellman, Yates and Tisdale,

PA, submitted an application to the City's Technical Review Committee (herein "TRC") for the purported purpose of a "text amendment to PUD". A true and correct copy of the TRC application is attached hereto and incorporated herein as "Exhibit E". However, upon information and belief, an ulterior purpose of the application for a PUD amendment was to further conceal evidence of the existence of the easement as specifically described herein.

45. Upon information and belief, the "text amendment to PUD" referenced in the preceding paragraph is referring to that certain First Amendment to Amended and Restated Planned Unit Development Guidelines, which was approved by virtue of ordinance # 2019-102, and ratified on October 8, 2019 (herein "First Amendment to Amended PUD"). A true and correct copy of the First Amendment to Amended PUD is attached hereto and incorporated herein as "Exhibit F".

46. Subsequently, on November 27, 2019, City executed the Development Agreement with 1776 to develop the Property, which was recorded in Book 0843, Page 506, in the ROD Office of Charleston County, South Carolina. A true and correct copy of the Development Agreement is attached hereto and incorporated herein as "Exhibit G".

47. Attached to the Development Agreement as exhibits are the original PUD and Amended PUD.

48. On December 12, 2019, 1776 transferred the Property to Beach Fenwick by virtue of a deed recorded in Book 0846, Page 268, in the ROD Office of Charleston County, South Carolina.

49. Beach Fenwick is the current owner of the Property, and upon information and

belief, is an affiliate and/or subsidiary of Beach Company, sharing some of the same officers, directors and/or employees who had actual knowledge of the easement, and otherwise had actual knowledge of the easement before it acquired title to the Property.

50. Also, on December 12, 2019, 1776 partially assigned its rights and obligations of the above-referenced development agreement to Beach Fenwick except for its obligations “with respect to the contribution of land for Northern Pitchfork Road...” pursuant to that certain partial assignment and assumption of rights and obligations under development agreement recorded in Book 0846, Page 269 in the ROD Office of Charleston County, South Carolina.

51. The development plans for the Property pursuant to the PUD, as amended, does not have any specific provisions or reservations for the easement.

The Conspiracy

52. At all relevant times, Zurlo had actual knowledge of easement.

53. Upon information and belief, Zurlo’s actual knowledge of the easement is imputed to each Defendant with whom he possessed any ownership or held any other interest therein.

54. Upon information and belief, during all relevant times, the Defendants, with the exception of City, had actual knowledge of the easement.

55. The First Amendment to Amended PUD, ratified by City on October 8, 2019, contained a certain Appendix “M”. Appendix “M” is a drawing that depicts, among other things, Maybank’s adjacent lot, the Property and a possible connection point for the easement.

56. On Appendix “M”, the words, “ALLOWABLE CONNECTION”, is linked to and Identifies a large arrow from the Property to Maybank’s adjacent lot. The large arrow is a depiction of a possible connection point for the easement from the Property to Maybank’s

adjacent lot. Attached hereto and incorporated herein as “Exhibit H” is an enlarged partial image of Appendix “M”.

57. Appendix “M” is similar to other drawings attached as Appendix “D” to the Amended PUD. However, unlike Appendix “D” to the Amended PUD, verbiage inside of the arrow was altered in Appendix “M”. Specifically, upon information and belief, the words, “FUTURE ROAD EXTENSION”, were darkened out in the arrow indicating a possible connection point for the easement in Appendix “M”. Attached hereto and incorporated herein as “Exhibit I” is an enlarged partial image of one of the drawings of Appendix “D”.

58. Upon information and belief, the large arrow in Appendix “M” was intentionally altered by Zurlo, 1776, Seamon Whiteside, and/or Beach Company to conceal the easement from City’s TRC, and also to avoid having to make any provisions, reservations or accommodations for the easement in the Amended PUD.

59. After the City’s ratification of the First Amendment to Amended PUD, before the Property was transferred from 1776 to Beach Company, on November 18, 2019, 1776 sent an e-mail to Seamon Whiteside, Beach Company and Zurlo that stated in relevant part:

You are correct that we have NO interest whatsoever in doing anything for Mitch Laplante, including assisting in the development of his or his kids’ Lot bearing Tax Map # 346-00-00-260. So long as we own the property, please do NOT release/share any information to Laplante, or anyone, else regarding and [sic] 1776,LLC property without our written permission. I have copied Alan and Eddie, as the request concerns property currently owned by 1776,LLC, but, as you know, being purchased for development by The Beach Company. (emphasis added).

A true and correct copy of the e-mail is attached hereto and incorporated herein as “Exhibit J”.

60. On December 2, 2019, Mitch Laplante, a member of Maybank 2754, LLC, attended City’s Design Review Board meeting relative to the Property and discussed the easement being omitted from the development plans at the meeting.

61. Present at the December 2, 2019 meeting were Alan McMahon, a development manager employed by the Beach Company, and Russ Seamon, a director employed by Seamon Whiteside.

62. Mitch Laplante, Alan McMahon and Russ Seamon discussed the easement with each other immediately after the December 2, 2019 meeting.

63. The next day, at 8:49 am on December 3, 2019, Russ Seamon sent an e-mail to Alan McMahon and others that depicted an image of Maybank's adjacent lot, part of the Property, and a large arrow going from the Property to Maybank's adjacent lot. The words "ALLOWABLE CONNECTION" were linked to the large arrow, and inside of it were the words, "and "FUTURE ROAD EXTENSION". The large arrow is a depiction a possible connection point for the easement from the Property to Maybank's adjacent lot. A true and correct copy of the e-mail is attached hereto and incorporated herein as "Exhibit K".

64. Also, in the same e-mail, Russ Seamon stated in reference to the image described in the paragraph above, "This is what the PUD shows on the connection Mitch Laplante was discussing. Says **"allowable" not "required", but TRC could potentially force the issue if they want..."**. (emphasis added).

65. At 10:37 am on December 3, 2019, Eric Schultz, principal planner and employee of City sent an e-mail to Russ Seamon and others and asked, "Do you have an exhibit that shows this easement referenced below?" Eric Shultz's question was in response to an e-mail sent by Mitch Laplante to him about the easement the same night after the December 2, 2019 City's Design Review Board meeting. A true and correct copy of the e-mail is attached hereto and incorporated herein as "Exhibit L".

66. At 10:49 am on December 3, 2019, in response to the Eric Shultz's e-mail, Russ

Seamon sent Alan McMahon an e-mail that stated in reference to the easement, **“It seems this was included in the amended PUD that Hellman and Yates handled.”** (emphasis added). Hellman and Yates is a law firm that represented 1776 during all relevant times. A true and correct copy of the e-mail is attached hereto and incorporated herein as “Exhibit L”.

67. Later that same day on December 3, 2019 at 4:20 pm, Russ Seamon sent Alan McMahon another e-mail that stated, “I spoke to Eddie – we need to have Hellman look into whether any language or exhibits were included in the amended PUD requiring a connection to Laplante.” A true and correct copy of the e-mail is attached hereto and incorporated herein as “Exhibit L”.

68. Upon information and belief, after 1776 acquired the Property and despite all Defendants, with the exception of City, having actual knowledge of the easement, Defendants, with the exception of City, in concert with Zurlo and/or 1776, and with the specific purpose of injuring Maybank, Mitch Laplante and Laplante Family, surreptitiously concealed the easement from City by intentionally and wrongfully omitting any references thereof in various documents, PUD documents, PUD amendment applications, site plans and drawings submitted to City for development approval, and/or assisted each other in these nefarious efforts, as part of a deceitful scheme to have the Property developed without affording any provisions or reservations for the easement.

69. Upon information and belief, after 1776 acquired the Property and despite all Defendants, with the exception of City, having actual knowledge of the easement, Defendants, with the exception of City, in concert with Zurlo and/or 1776, and with the specific purpose of injuring Maybank, Mitch Laplante and Laplante Family, actively concealed information about the development of the Property from Maybank, Mitch Laplante and Laplante Family, and/or

assisted each other in these nefarious efforts, as part of a deceitful scheme to have the Property developed without affording any provisions or reservations for the easement.

70. Upon information and belief, after 1776 acquired the Property and despite all Defendants, with the exception of City, having actual knowledge of the easement, Defendants, with the exception of City, in concert with Zurlo and/or 1776, and with the specific purpose of injuring Maybank, Mitch Laplante and Laplante Family, intentionally failed to disclose the easement in their various meetings and representations to City, and/or assisted each other in these nefarious efforts, as part of a deceitful scheme to have the Property developed without affording any provisions or reservations for the easement.

71. The Property is now primed and ready for development without any provision or reservation made for the easement over and across the Property.

COUNT I
(Declaratory Judgment - Easement)

72. Plaintiff re-alleges the Paragraphs above as though fully set forth herein verbatim.

73. This is an action for declaratory judgment pursuant to South Carolina Code § 15-53-10, et. seq.

74. There is a bona fide dispute between the Plaintiff and Defendants that constitutes a justiciable controversy.

75. Plaintiff seeks a judgment declaring that it has a thirty (30) foot private right of way access easement for pedestrian and vehicular ingress, egress and access to, from and over the Property, which is to be tied from Maybank's adjacent lot to Pitchford Road upon the completion of Pitchfork Road.

76. Plaintiff has retained TAROKH LAW, PLLC, to initiate and maintain this action and is obligated to pay it a reasonable fee for its services in bringing this action.

WHEREFORE, Plaintiff requests a declaratory judgment declaring that is has a thirty (30) foot private right of way access easement for pedestrian and vehicular ingress, egress and access to, from and over the Property, which is to be tied from Maybank's adjacent lot to Pitchford Road upon the completion of Pitchfork Road, including a separate award of attorney's fees and costs against the Defendants, and for such further relief as this Court deems just and proper.

COUNT II
(Declaratory Judgment – Restrictive Covenant)

77. This count is pled in the alternative to Count I.

78. Plaintiff re-alleges the Paragraphs above as though fully set forth herein verbatim except for the Paragraphs comprising Count I.

79. This is an action for declaratory judgment pursuant to South Carolina Code § 15-53-10, et. seq.

80. There is a bona fide dispute between the Plaintiff and Defendants that constitutes a justiciable controversy.

81. The very language of the Resolution, Contract for Assignment and Assignment for the grant of a thirty (30) foot private right of way for pedestrian and vehicular ingress, egress and access to, from and over the Property upon the completion of Pitchfork Road constitutes a restrictive covenant that runs with the land in that the parties to the Resolution, Contract for Assignment and Assignment intended that the covenant run with the land, and the covenant touches and concerns the land.

82. By developing and intending to develop the Property without making any reservation or provision for the thirty (30) foot private right of way for pedestrian and vehicular ingress, egress and access to, from and over the Property upon the completion of Pitchfork Road, the Defendants are intentionally violating the restrictive covenant.

83. Plaintiff seeks a judgment declaring that the creation of a thirty (30) foot private right

of way for pedestrian and vehicular ingress, egress and access to, from and over the Property upon the completion of Pitchfork Road as set forth in the Resolution, Contract for Assignment and Assignment is a restrictive covenant that runs with the land.

84. Plaintiff has retained TAROKH LAW, PLLC, to initiate and maintain this action and is obligated to pay it a reasonable fee for its services in bringing this action.

WHEREFORE, Plaintiff requests a declaratory judgment that the grant of a thirty (30) foot private right of way for pedestrian and vehicular ingress, egress and access to, from and over the Property upon the completion of Pitchfork Road pursuant to the Resolution, Contract for Assignment and Assignment constitutes a restrictive covenant that runs with the land, including a separate award of attorney's fees and costs against the Defendants, and for such further relief as this Court deems just and proper.

COUNT III
(Civil Conspiracy)

85. Plaintiff re-alleges the Paragraphs above as though fully set forth herein verbatim except for the Paragraphs comprising Counts I and II.

86. This is an action for damages based upon the civil conspiracy committed by the Defendants.

87. As a result, the Plaintiff has suffered damages.

88. Plaintiff has suffered special damages in that its adjacent lot has lost the value of the easement across the Property.

90. Plaintiff is entitled to punitive damages as result of the Defendants', with the exception of City, unfair and fraudulent conduct.

91. Plaintiff has retained TAROKH LAW, PLLC, to initiate and maintain this action and is obligated to pay it a reasonable fee for its services in bringing this action.

WHEREFORE, Plaintiff requests a judgment for damages against the Defendants, with the exception of City, including special and punitive damages, and also including a separate award of attorney's fees and costs against the Defendants, and for such further relief as this Court deems just and proper.

COUNT IV
(Declaratory Judgment – The PUD, as amended)

92. Plaintiff re-alleges the Paragraphs above as though fully set forth herein verbatim.

93. This is an action for declaratory judgment pursuant to South Carolina Code § 15 53-10, et. seq.

94. There is a bona fide dispute between the Plaintiff and Defendants that constitutes a justiciable controversy.

95. South Carolina Code § 15-53-30, et. seq., states in relevant part:

Any person...whose rights, status or other legal relations are affected by a municipal ordinance...may have determined any question of construction or validity arising under the...ordinance and obtain a declaration of rights, status or other legal relations thereunder.

96. The Property and Maybank's adjacent lot is zoned as a PUD district.

97. Part 7 of the Zoning Ordinance of City of Charleston, Section 54-250, et. seq., governs a PUD designation and development within a PUD.

98. The Property is governed by the Development Agreement with the City. The Development Agreement is currently based upon the Amended PUD (ordinance # 2018-164) and First Amendment to Amended PUD (ordinance # 2018-164).

99. Maybank is entitled to a declaratory judgment declaring that the PUD, as amended, violates Maybank's easement.

100. In the alternative, Maybank is entitled to a declaratory judgment declaring that the PUD, as amended, violates the restrictive covenant as set forth in Count II above.

101. Plaintiff has retained TAROKH LAW, PLLC, to initiate and maintain this action and is obligated to pay it a reasonable fee for its services in bringing this action.

WHEREFORE, Plaintiff requests a declaratory judgment that the PUD, as amended, violates its easement, or in the alternative, violates the restrictive covenant as set forth in Count

II above, including a separate award of attorney's fees and costs against the Defendants, with the exception of the City, and for such further relief as this Court deems just and proper, including prohibiting development of the Property until the PUD, as amended, properly provides for the easement, or in the alternative, the restrictive covenant as set forth in Count II above.

REQUEST FOR JURY TRIAL

102. The Plaintiff requests a trial by jury on all issues so triable.

Respectfully submitted,

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510
jason@tarokhlaw.com

/s/ Jason M. Tarokh
JASON M. TAROKH
SOUTH CAROLINA BAR # 72837

July 8, 2020

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

Plaintiff,

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; 1776, LLC; BEACH FENWICK, LLC;
THE BEACH COMPANY; SEAMON, WHITESIDE
& ASSOCIATES, INC.; PENNY CREEK ASSOCIATES,
LLC; JOHN DOE AND MARY ROE; CITY OF
CHARLESTON;

Defendants,

VERIFICATION

PERSONALLY APPEARED before me, Michel F. Laplante, Manager of MAYBANK 2754, LLC, who after first being duly sworn, deposes and says that he has read the foregoing Amended Verified Complaint and the statements contained therein are true, except those made on information and belief, and as to those he believes them to be true.

MAYBANK 2754, LLC

BY: 
Michel F. Laplante
ITS: Manager

SWORN to and subscribed before me
this 8th day of July, 2020.


Notary Public for South Carolina
My Commission Expires: September 26, 2027

CHERIE ROGERS COUCHE
Notary Public - State of South Carolina
My Commission Expires September 26, 2027

**RESOLUTION OF THE SOLE SHAREHOLDER
OF PENNY CREEK ASSOCIATES, L.L.C.**

At a meeting of the Members of Penny Creek Associates, L.L.C. (the "Company") held at the Company's offices in Charleston, South Carolina, the Members of the Company hereby adopt the following resolutions:

WHEREAS, the Company is the sole member of Maybank 2754, LLC, a South Carolina limited liability company (the "Maybank 2754, LLC"); and

WHEREAS, pursuant to the terms and conditions of that certain Contract for Assignment of Interest, dated October 1, 2013, by and between the Company, Inc. (as Seller thereunder) and John H. Laplante, Michel F. Laplante, Peter F. Laplante, Marianne Laplante-Scarlata, or their assigns (as Purchasers thereunder) (the "Agreement"), the Seller desire to sell, assign, transfer and convey certain Membership Interest in the Company to those certain Purchasers mentioned above and according to the provisions of the Agreement; and

WHEREAS, pursuant to the Agreement, the Company hereby certifies that the Company has complied with all provisions of the Company operating documents, with respect to the aforementioned sale, assignment and/or transfer of the Company Membership Interest in the Maybank 2754, LLC to the Purchaser, in consideration of Four Hundred Thousand and no/100 Dollars (\$400,000.00) and that the Members of the Company consent to the same; and

WHEREAS, as a condition of closing, the Company has agreed to grant, transfer, sell and convey to Purchasers, their successors and assigns, an access easement for pedestrian and vehicular ingress, egress and access to, from and over that portion of the lands of Seller known as "Residual Tract B-2-2" as shown on that plat by Richard D. Lacy, entitled "PLAT SHOWING THE SUBDIVISION OF TRACT C-1 TMS NO. 346-00-00-077), TRACT B-2-1 (TMS NO. 346-00-00-004), AND TRACT B-2-2 (TMS NO. 346-00-00-076) TO CREATE EXTENSION OF FENWICK HALL ALLEÉ (CONTAINING 0.272 ACRES) AND CREATING RESIDUAL TRACT C-1 (TMS NO. 346-00-00-077) CONTAINING 15.454 ACRES, RESIDUAL TRACT B-2-1 (TMS NO. 346-00-00-004) CONTAINING 24.895 ACRES, AND RESIDUAL TRACT B-2-2 (TMS NO. 346-00-00-076) CONTAINING 22.856 ACRES)," having been recorded in Plat Book EH, page 817 in the Charleston County RMC Office on March 25, 2005 ("30' Private R/W"), the location and condition of which shall be mutually agreed upon at the completion of that certain roadway known as Pitch Fork Road ("Pitch Fork Road"). Upon the completion of Pitch Fork Road, the Parties hereto shall execute and record an Easement Agreement to memorialize the 30' Private R/W.

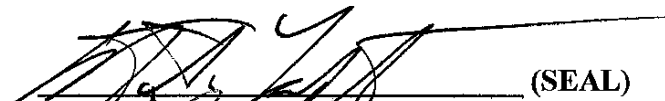
NOW THEREFORE IT IS RESOLVED, that the Company approves the Agreement; the sale, assignment, transfer and conveyance of Membership Interest in the Company thereunder; and any and all other documents necessary to facilitate the Company's execution of the Agreement and its compliance with the transactions contemplated thereunder.

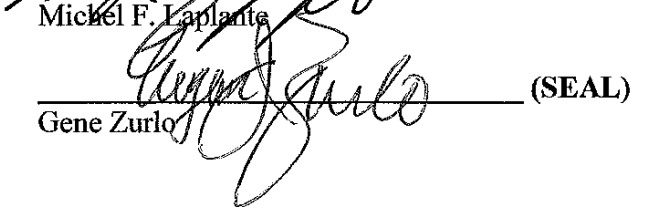
BE IT FURTHER RESOLVED, that upon the completion of Pitch Fork Road, the Company shall grant to Purchasers, their successors and assigns, an access easement for pedestrian and vehicular ingress, egress and access to, from and over that portion of the lands of the Company known as "Residual Tract B-2-2" as shown on that plat by Richard D. Lacy, entitled "PLAT SHOWING THE SUBDIVISION OF TRACT C-1 TMS NO. 346-00-00-077), TRACT B-2-1 (TMS NO. 346-00-00-004), AND TRACT B-2-2 (TMS NO. 346-00-00-076) TO CREATE EXTENSION OF FENWICK HALL ALLEÉ (CONTAINING 0.272 ACRES) AND CREATING RESIDUAL TRACT C-1 (TMS NO. 346-00-00-077) CONTAINING 15.454 ACRES, RESIDUAL TRACT B-2-1 (TMS NO. 346-00-00-004) CONTAINING 24.895 ACRES, AND RESIDUAL TRACT B-2-2 (TMS NO. 346-00-00-076) CONTAINING 22.856 ACRES)," having been recorded in Plat Book EH, page 817 in the Charleston County RMC Office on March 25, 2005 ("30' Private R/W"), the location and condition of which shall be mutually agreed upon at a future date.

BE IT FURTHER RESOLVED, that Michel F. Laplante in his capacity as Manager of the Company is hereby authorized to execute and deliver on behalf of the Company any and all agreements, assignments, satisfactions, releases, discharges, papers, documents, lending and collateral documents, offers, applications, leases, affidavits, certificates, certifications, verifications, non-disturbance agreements, guaranties, bonds, notes, subordination agreements, security agreements, resolutions, settlement statements, and any and all other contracts, papers or documents required in the course of the execution of the Agreement and the assignment and transfer of Membership Interest in the Company.

The undersigned Members of the Company do hereby certify that as of this 4TH day of October, 2013 the above to be a true and correct transcript of the Resolutions passed by the Company at the time and place above stated.

MEMBERS:

 (SEAL)
Michel F. Laplante

 (SEAL)
Gene Zurlo

CONTRACT FOR ASSIGNMENT OF INTEREST

THIS CONTRACT FOR ASSIGNMENT OF INTEREST (this "Agreement") is made and entered into this 1 day of October, 2013, by and between John H. Laplante, Michel F. Laplante, Peter F. Laplante, Marianne Laplante-Scarlata, or their assigns, (each a "Purchaser" and collectively the "Purchasers") and Penny Creek Associates, L.L.C., a South Carolina limited liability company (the "Seller").

WITNESSETH:

WHEREAS, the Seller is the sole member of Maybank 2754, LLC, a South Carolina limited liability company (the "Company"); and

WHEREAS, the Company is not governed by a written operating agreement;

WHEREAS, on the terms and subject to the conditions of this Agreement, Purchasers desire to purchase One Hundred and No/100 (100%) Percent of Seller's membership interest in the Company, and Seller desires to sell and assign such One Hundred and No/100 (100%) Percent of its membership interest in the Company to Purchasers (the "Assignment"); and

WHEREAS, Purchasers and Seller now desire to memorialize the terms and conditions and respective rights, duties and obligations of the Purchasers and Seller regarding the Assignment by the provisions hereof and executing this Agreement; and

WHEREAS, the Company is joining in this Agreement for the limited purpose of acknowledging its agreement to the Assignment.

NOW, THEREFORE, in consideration of the forgoing and the mutual promises and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Purchasers and Seller, the undersigned, intending to be legally bound, hereby agree as follows:

ARTICLE I Assignment of Interest

Section 1.1. Assignment of Interest. On the terms and subject to the conditions set forth in this Agreement, Seller hereby agrees to sell, assign, transfer and deliver to Purchasers on the "Closing Date" (hereinafter defined), and Purchasers agree to purchase from Seller on the Closing Date, One Hundred and No/100 (100%) Percent of Seller's membership interest in the Company, including any and all associated financial and voting rights in the Company (such assets being hereinafter collectively referred to as the "Interest"). Said Interest being the entire outstanding membership interest of the Company.

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"Exhibit B"

Section 1.2. Assumption of Liabilities. It is hereby expressly understood and agreed that Purchasers do not assume or agree hereunder to pay, perform or discharge any debt, obligation or liability of Seller of any kind or nature whatsoever nor shall the Interest be subject to any such debt, obligation or liability.

Section 1.3. Purchase Price. On the terms and subject to the conditions set forth in this Agreement, Purchasers shall pay to Seller the purchase price of Four Hundred ~~Twenty-Five~~ Thousand and No/100 (~~\$425,000.00~~) Dollars ("Purchase Price").

400,000.00

ARTICLE II Closing

Section 2.1. Closing. The closing (the "Closing") of the sale, transfer, assignment and delivery of the Interest, the delivery of the Conveyance Documents pursuant to Section 2.2 of this Agreement, the payment of the Purchase Price, and the delivery of any and all other instruments and certificates required hereunder shall take place on or before 4:00 PM ET, October 4, 2013, at the offices of Buist, Byars & Taylor, LLC, or at such other date or at such other time or place as the parties hereto shall agree to in writing (the date and time of the closing hereunder being referred to herein as the "Closing Date").

Section 2.2. Transfer of Interest. On the Closing Date, Seller shall execute and deliver to Purchasers all such instruments and documents (the "Conveyance Documents") (including, but not limited to the "Assignment of Interest" attached hereto as Exhibit "A,") as shall be requested by Purchasers to effectuate the sale, assignment, transfer and delivery of the Interest from Seller to Purchasers.

ARTICLE III Representations and Warranties

Seller and Purchasers hereby represent and warrant to each other as follows:

Section 3.1. Authorization, Etc. The execution and delivery of this Agreement, the Assignment of Interest and any Conveyance Documents by Seller and Purchasers and the due consummation of the transactions contemplated herein have been duly authorized by all necessary action on the part of Seller and Purchasers. This Agreement has been duly executed and delivered by Seller and Purchasers and constitutes the legal, valid and binding obligations of Seller and Purchasers, enforceable against Seller and Purchasers in accordance with its terms. When executed and delivered pursuant to this Agreement, the Conveyance Documents will be the legal, valid and binding obligations of Seller and Purchasers, enforceable against Seller and Purchasers in accordance with their terms.

Section 3.2. No Violation. Neither the execution and delivery of this Agreement nor the consummation by Seller or Purchasers of the transactions contemplated hereby will constitute a violation of: (a) any agreement(s) or commitment(s) to which they are a party or by which they are bound; (b) any judgment, decree, order, regulation or rule of any court or governmental authority; or (c) any statute or law.

Section 3.3. Consent to Transfer of Membership Interest. The Company has joined in this Agreement for the limited purpose of acknowledging its consent to the Assignment of Interest from Seller to Purchasers, and its agreement to accept the Purchasers as Members of the Company.

Section 3.4. No Other Consents. Except as set forth in Section 3.3 hereto, no consent, approval or authorization of any third party or any federal, state or local or other governmental regulatory agency or authority is required in connection with the execution, delivery and performance of Seller and Purchasers under this Agreement.

Section 3.5. Title to Assets; Encumbrances. Seller has good, valid and marketable title to the Interest, subject to no lien, security interest, encumbrance or other restriction and Seller hereby represents and warrants that the Company has good, valid and marketable title to the Property, subject only to the permitted exceptions" set forth in Exhibit "2" (the "Permitted Exceptions").

ARTICLE IV

Conditions to Purchasers' Obligations

Each and every obligation of Purchasers under this Agreement to be performed at or before the Closing Date shall be subject to the fulfillment, at or before the Closing Date, of each of the following conditions:

Section 4.1. Representations and Warranties True; Obligations Performed. (i) The representations and warranties of Seller and Purchasers contained in this Agreement shall be true and correct in all material respects as of the Closing Date with the same force and effect as if made on and as of the Closing Date; (ii) Seller and Purchasers shall have performed and complied in all material respects with all agreements and covenants required by this Agreement to be performed by it prior to the Closing Date; and (iii) Seller shall have delivered the Interest to Purchasers at the Closing.

Section 4.2. No Material Adverse Change. There shall not have occurred any material adverse change since the date of this Agreement in the business, properties, results of operations or business or financial condition of the Company, or the Interest being conveyed by Seller.

Section 4.3. Litigation. No suit, investigation, action or other proceeding shall be threatened or pending against Seller or Company before any court or governmental agency that, in the opinion of counsel for Purchasers, could result in the restraint, prohibition or obtainment of damages or other relief against either Seller or Company in connection with this Agreement or the consummation of the transactions contemplated hereby.

Section 4.4. Conveyance Documents. Seller shall have executed and delivered the Conveyance Documents in form and substance customary and usual for their intended purpose and reasonably satisfactory to Purchasers and its counsel.

Section 4.5. 30' Access Easement. Seller shall grant, transfer, sell and convey to Purchaser, its successors and assigns, an access easement for pedestrian and vehicular ingress, egress and access to, from and over that portion of the lands of Seller known as "Residual Tract B-2-2" as shown on that plat by Richard D. Lacy, entitled "PLAT SHOWING THE SUBDIVISION OF TRACT C-1 TMS NO. 346-00-00-077), TRACT B-2-1 (TMS NO. 346-00-00-004), AND TRACT B-2-2 (TMS NO. 346-00-00-076) TO CREATE EXTENSION OF FENWICK HALL ALLEÉ (CONTAINING 0.272 ACRES) AND CREATING RESIDUAL TRACT C-1 (TMS NO. 346-00-00-077) CONTAINING 15.454 ACRES, RESIDUAL TRACT B-2-1 (TMS NO. 346-00-00-004) CONTAINING 24.895 ACRES, AND RESIDUAL TRACT B-2-2 (TMS NO. 346-00-00-076) CONTAINING 22.856 ACRES)," having been recorded in Plat Book EH, page 817 in the Charleston County RMC Office on March 25, 2005 ("30' Private R/W"), the location and condition of which shall be mutually agreed upon at the completion of that certain roadway known as Pitch Fork Road ("Pitch Fork Road"). Upon the completion of Pitch Fork Road, the Parties hereto shall execute and record an Easement Agreement to memorialize the 30' Private R/W.

ARTICLE V Indemnification

Section 5.1. Indemnification. Seller and Purchasers each hereby indemnify and hold the other harmless and shall defend the other from any and all claims, demands, actions, causes of action, judgments, costs and expenses, including attorneys' fees and court costs arising out of the ownership of the Interest and the operation of the Company; prior to the Closing in the case of Seller's indemnification of Purchasers, and from and after the Closing in the case of the Purchasers' indemnification of Seller.

ARTICLE VI Miscellaneous

Section 6.1. Expenses. The Purchasers and Seller shall pay all expenses incurred in connection with the preparation and execution of the Agreement and in connection with the transactions contemplated hereby as purchasers and sellers customarily pay in Charleston County in similar transactions.

Section 6.2. Survival of Representations, Warranties and Covenants. Each of the representations, warranties, obligations, covenants and agreements of the undersigned included or provided for herein or in any schedule, certificate, or other document delivered pursuant to this Agreement shall survive the consummation of the transactions contemplated by this Agreement, notwithstanding any investigation heretofore or hereafter made by any of them or on behalf of any of them.

Section 6.3. Schedules and Exhibits. Any exhibits and schedules referred to herein and attached hereto are made a part of this Agreement.

Section 6.4. Assignment. This Agreement and all of the provisions hereof shall be binding upon, and inure to the benefit of Seller, Purchasers, and their respective successors, personal representatives, executors, heirs, beneficiaries, and permitted assigns. Purchasers, with the prior written consent of the Company, shall be permitted to assign his rights or delegate their duties pursuant to this Agreement, or any other right, obligation or duty contemplated by this Agreement, in whole or in part.

Section 6.6. Entire Agreement. This Agreement, including the other documents referred to herein which form a part hereof, constitutes the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings between the parties with respect to such subject matter.

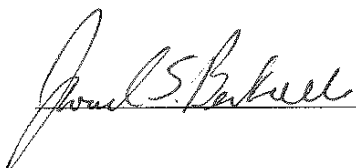
Section 6.7. Waiver; Amendment. No waiver in any instance by any party of any provision of this Agreement shall be deemed a waiver by such party of such provision in any other instance or a waiver of any other provision hereunder in any instance. This Agreement cannot be modified except in writing signed by the party to be charged.

Section 6.8. Counterparts This Agreement may be executed in more than one counterpart, each such counterpart shall be deemed an original, and all such counterparts shall constitute one and the same agreement. This Agreement shall be effective when executed by all parties, but all parties need not execute the original or the same counterpart.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date(s) written below.

WITNESS



SELLER:

Penny Creek Associates, L.L.C.

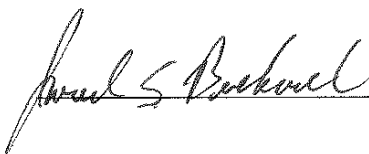


By: Michel F. Laplante

Its: Manager

Date: 10/7, 2013

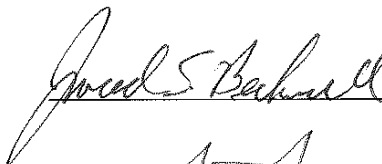
PURCHASERS:





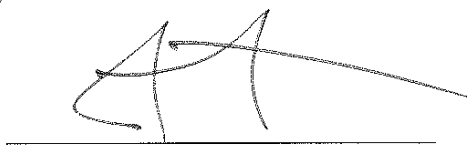
John H. Laplante

Date: 10/7, 2013



Michel F. Laplante

Date: 10/7, 2013

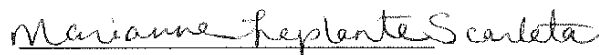




Peter F. LaPlante

Date: 10/7, 2013





Marianne Laplante-Scarlata

Date: 10/7, 2013

[Balance of page intentionally left blank. Signatures to follow.]



COMPANY:
Maybank 2754, LLC



By: Penny Creek Associates, LLC

Its: Sole Member

By: Michel F. Laplante

Its: Manager

Date: 10/7, 2013

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EXHIBIT "A"

(Assignment of Membership Interest and Written Consent in Lieu of a Special Meeting of the
Sole Member of Maybank 2754, LLC)

**ASSIGNMENT OF MEMBERSHIP INTEREST AND
WRITTEN CONSENT IN LIEU OF A SPECIAL MEETING
OF THE SOLE MEMBER OF MAYBANK 2754, LLC**

DATE: October 4, 2013

PARTIES: Penny Creek Associates, L.L.C., a South Carolina limited liability company (the “Transferring Member”) and, John H. Laplante, Michel F. Laplante, Peter F. Laplante, Marianne Laplante-Scarlata, or their assigns or its assigns, (each a “Transferee” or collectively the “Transferees”).

RECITALS:

A. The Transferring Member is the sole member of Maybank 2754, LLC, a South Carolina limited liability company (the “Company”).

B. The Transferring Member has a 100.0% ownership interest in the Company, and is entitled to that percentage of the profits and interim distributions of the Company, and must bear that percentage of the Company’s losses.

AGREEMENTS:

1. ASSIGNMENT. By signing this assignment, the Transferring Member assigns and transfers all of its 100.0% interest in the Company to the Transferees, in equal shares. This assignment and transfer includes all of the right, title and interest of the Transferring Member in the profits, losses, and interim distribution of the Company.

2. ACCEPTANCE. By signing this assignment, the Transferees accept the assignment and transfer of the interest as a Member of the Company being transferred under this assignment.

3. CONSIDERATION. In consideration of the mutual promises and agreements contained in that certain Contract for Assignment of Interest, dated October 4, 2013, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged (“Consideration”), said Consideration to be paid in full and into escrow upon the execution of a certain Contract for Assignment of Interest, by and between the Transferring Member and Transferees, dated October 4, 2013.

4. TRANSFERRING MEMBER’S REPRESENTATIONS AND WARRANTIES. The Transferring Member represents and warrants to the Transferees that:

4.1. Ownership of Interest and Right to Transfer. The Transferring Member is the sole owner of the interest in the Company being transferred under this assignment, free and clear of any and all liens or encumbrances, and will defend the same against all claims and demands of all persons. The Transferring Member has a good right to transfer the interest as a member of the Company to each Transferee.

4.2. Status of Company. The Company is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of South Carolina and has all powers required to own its assets and property and to carry on its business as now owned and conducted. The Company is not licensed or qualified as a foreign limited liability company in any other state, and the nature of its business does not make such license or qualification necessary.

4.3. Financial Statements. The financial records of the Company, to the extent available, have been furnished to the Transferees (collectively the "Financial Statements") and are in accordance with the books and records of the Company, are based upon regularly accepted accounting principles that have been consistently applied, are complete and correct, and fairly present the financial position and results of operation of the Company as of the dates and for the periods indicated.

4.4. Adverse Changes. There has been no material adverse change in the financial condition of the Company or in the condition of its assets from that reflected in the Financial Statements.

4.5. Liabilities. the Company does not have any material liabilities or obligations of any kind whether accrued, absolute, contingent, or otherwise, and whether or not such liabilities or obligations would have been required to be disclosed on a balance sheet prepared in accordance with generally accepted accounting principles.

4.6. Tax Returns. The Company has filed all tax returns and reports that it is required to file with the appropriate federal, state, and local government agencies. Such returns and reports are accurate and complete, and the Company has paid in full or has made adequate provision for payment of all taxes, interest, penalties, assessments, or deficiencies shown to be due on such returns or reports, claimed to be due by any taxing authority, or otherwise due and owing. The Company has made all withholdings of tax required to be made under all applicable federal, state, and local tax regulations. To the best of the knowledge of the Transferring Member, the provisions for applicable property taxes and/or any applicable payroll taxes payable reflected in the Financial Statements are adequate.

4.7. Assets. The Company has good and marketable title to all of its assets, including but not limited to that certain real property known as "Lot B-3" located in City of Johns Island, Charleston County, South Carolina and as more particularly described in Exhibit "1," attached hereto and incorporated herein by reference (the "Property"), free and clear of all claims and encumbrances, except any liens for taxes not yet due and payable or as disclosed in the financial statements.

4.8. Compliance with Law. To the best of the knowledge and belief of the Transferring Member, the Company is not in violation of any applicable law, ordinance, regulation, order, or requirement relating to its operations.

4.9. Actions and Suits. There are no actions, suits, or proceedings pending or threatened against or affecting the Company at law or in equity or before or by any federal, state, municipal, or other governmental or nongovernmental department, commission, board, bureau, agency, or instrumentality that can reasonably be expected to result in any adverse change in the business, properties, operations, prospects, or assets of the Company or in its condition, financial or otherwise.

4.10. Obligations and Contracts. The Company is not in default in the payment of any of its obligations and is not in breach of the performance of any contract to which it is a party.

4.11. Complete Disclosures. To the best of the knowledge and belief of the Transferring Member, neither this assignment nor any document that has been furnished by the Transferring Member to the Transferees in connection with this assignment contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements in this assignment or in such documents not misleading. There is no fact that materially adversely affects, or, to the best of the knowledge and belief of the Transferring Member, in the future may materially adversely affect, the business, operations, or condition (financial or otherwise) of the Company that has not been set forth in this assignment or in the Financial Statements.

5. TRANSFEREES' REPRESENTATIONS AND WARRANTIES. The Transferees represent and warrant to the Transferring Member, and to the Company, that:

5.1. Investment Intent. The Transferees are acquiring the interest as a member of the Company being transferred under this assignment for investment and not with a view to distribution.

5.2. Securities Law Registration. The Transferees understand that the interest as a member of the Company being transferred under this assignment has not been registered under the Securities and Exchange Act of 1933 or under applicable state securities statutes in reliance upon exemptions from registration. The Transferees also understand that the interest must be held indefinitely, unless it is later registered under the Securities and Exchange Act of 1933 and applicable state securities statutes unless exemptions from registration are otherwise available, and that the Company has no obligation to register the interest. The Transferees agree that the interest will not be offered, sold, transferred, pledged, or otherwise disposed of without registration under the Securities and Exchange Act of 1933 and applicable state securities laws or an opinion of counsel acceptable to the Company that such registration is not required.

6. **30' ACCESS EASEMENT.** As a condition of closing, Transferor agrees to grant, transfer, sell and convey to Transferee, its successors and assigns, an access easement for pedestrian and vehicular ingress, egress and access to, from and over that portion of the lands of Transferor known as "Residual Tract B-2-2" as shown on that plat by Richard D. Lacy, entitled "PLAT SHOWING THE SUBDIVISION OF TRACT C-1 TMS NO. 346-00-00-077), TRACT B-2-1 (TMS NO. 346-00-00-004), AND TRACT B-2-2 (TMS NO. 346-00-00-076) TO CREATE EXTENSION OF FENWICK HALL ALLEÉ (CONTAINING 0.272 ACRES) AND CREATING RESIDUAL TRACT C-1 (TMS NO. 346-00-00-077) CONTAINING 15.454 ACRES, RESIDUAL TRACT B-2-1 (TMS NO. 346-00-00-004) CONTAINING 24.895

ACRES, AND RESIDUAL TRACT B-2-2 (TMS NO. 346-00-00-076) CONTAINING 22.856 ACRES),” having been recorded in Plat Book EH, page 817 in the Charleston County RMC Office on March 25, 2005 (“30’ Private R/W”), the location and condition of which shall be mutually agreed upon at the completion of that certain roadway known as Pitch Fork Road (“Pitch Fork Road”). Upon the completion of Pitch Fork Road, the Parties hereto shall execute and record an Easement Agreement to memorialize the 30’ Private R/W.

7.SURVIVAL OF REPRESENTATIONS AND WARRANTIES. All warranties and representations made in this assignment will survive the closing of the transfer of the interest as a member of the Company being transferred under this assignment.

8.CONSENT. By signing this assignment, the Transferring Member consents to the assignment and transfer to the Transferees of the interest as a member of the Company being transferred under this assignment and agrees to accept the Transferees as a members of the Company with respect to the transferred interest of the Transferring Member, with full rights and obligations of a member, and by signing this written Consent, waives notice of the time, place and purpose of a joint meeting of the Members, and agrees to the transaction of the business of this joint meeting by unanimous consent of the Members.

9. OWNERSHIP INTEREST. The Members of the Company, their initial capital contributions shall be deemed to have been made, and their voting percentage within the Company shall be as follows:

MEMBERS	VOTING PERCENTAGE
John H. Laplante	50.0%
Michel F. Laplante	25.0%
Peter F. Laplate	12.5%
Marianne Laplante-Scarlata	12.5%
TOTAL	100.0%

10. MISCELLANEOUS PROVISIONS.

10.1. Binding Effect. The provisions of this assignment are binding upon and will inure to the benefit of the heirs, personal representatives, successors, and assigns of the parties.

10.2. Notice. Any notice or other communication required or permitted to be given under this assignment must be in writing and must be mailed by certified mail, return receipt requested, postage prepaid, addressed to the parties at the addresses set forth herein. All notices and other communications will be deemed to be given at the expiration of three days after the

date of mailing. The address of a party to which notices or other communications must be mailed may be changed from time to time by giving notice to the other parties.

10.3. Litigation Expense. If any legal proceeding is commenced for the purpose of interpreting or enforcing any provision of this assignment, including any proceeding in the United States Bankruptcy Court, the prevailing party in such proceeding will be entitled to recover reasonable attorney's fees in such proceeding, or any appeal thereof, to be set by the court without the necessity of hearing testimony or receiving evidence, in addition to the costs and disbursements allowed by law.

10.4. Governing Law. This assignment will be governed by the law of the State of South Carolina.

10.5. Entire Agreement. This assignment constitutes the entire agreement between the parties pertaining to its subject matter, and it supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. No supplement, modification, or amendment of this assignment will be binding unless executed in writing by all parties.

[Signatures on following page]

IT IS SO RESOLVED, APPROVED, AND AGREED THIS 4th DAY OF OCTOBER,
2013.

TRANSFERRING MEMBER:

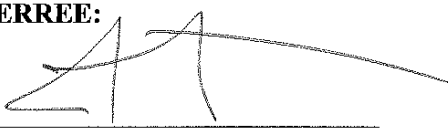
Penny Creek Associates, L.L.C.

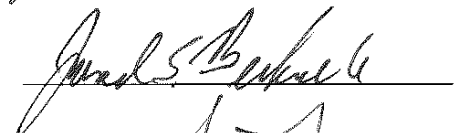


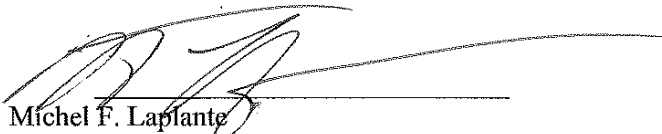

By: Michel F. Laplante
Its: Manager

TRANSFERREE:



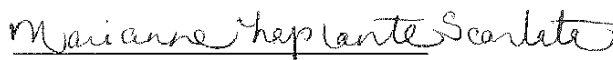

John H. Laplante





Michel F. Laplante




Peter F. Laplante


Marianne Laplante-Scarlata



PTM

October 10, 2016

Mr. John LaPlante
2754 Maybank, LLC
2754 Maybank Hwy
Suite 500
Johns Island, SC

**2754 MAYBANK COMMERCIAL
CHARLESTON, SOUTH CAROLINA**

We understand that you intend to demolish the existing office building and redevelop TMS 345-00-00-008 as a retail and office multi-story building with associated parking and storm water detention. It is also our understanding that the property is currently in the Fenwick Village PUD, will potentially increase in size toward the rear, and will have the ability to locate some of the development program within an off-site easement within the Fenwick Village PUD. Per your request, we have prepared the following proposal for Planning, Civil Engineering and Landscape Architectural services we can provide to assist you on this project.

Scope of Services

Seamon, Whiteside & Associates, Inc. (SW+) will provide the following professional services:

Division One: Preliminary Master Planning

1. Coordinate with Client on project requirements (one meeting -complete).
2. Research zoning requirements. Prepare a site constraints base map that illustrates buffers, setbacks, and pertinent zoning requirements. Provide map to Client.
3. Discuss site development approach with Client based on constraints map and zoning requirements (one meeting).
4. Review and comment on architectural site study to be provided by Client.
5. Estimate detention requirements based on architectural site study.
6. Meet with City to discuss the zoning consistency of the architectural site study and receive comments.

Division Two: Conceptual Design

501 WANDO PARK BLVD, SUITE 200 | MOUNT PLEASANT, SC 29464 | 843.884.1667 | WWW.SEAMONWHITESIDE.COM

"Exhibit D"

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1. Review City comments with Client and decide on final site design direction.
2. Obtain proposal for remaining required surveying services (topographic, trees, wetlands) from SW+ Engineering who shall contract directly with Client.
3. Client shall provide a wetlands survey verified by The US Army Corps of Engineers or evidence that no wetlands exist on the property.
4. Investigate potential impacts to wetlands (if any) and coordinate with environmental consultant to provide recommendations regarding permitting issues. This proposal does not include efforts to support the preparation and submittal of a permit application to impact wetlands. Should the Client desire these services, they can be provided at an additional fee. Environmental consultant shall contract directly with the Client.
5. Coordinate with all necessary agencies on project requirements including but not limited to:
 - a. City of Charleston (zoning, site plan, drainage, access)
 - b. Charleston Water Systems (water and sewer)
 - c. SCDHEC-OCRM (Coastal Zone Consistency)
 - d. SCDOT (as required for highway encroachments)
 - e. SCE&G (gas & power)
6. Coordinate with Client and Architect on building footprints and site plan. Client or Client's Architect to provide building footprints in CAD format.
7. Prepare a Conceptual Site Plan based on the Client's architectural site plan, site conditions, public agency input, and applicable regulations.
8. Review the Plan with the Client and revise based on Client's input (one revision).
9. Prepare one submittal to Technical Review Committee Pre-application Package to include:
 - a) Title Sheet
 - b) Existing Conditions
 - c) Site Plan
10. Attend and present at TRC Pre-application Meeting (one meeting).
11. Revise master plan to address TRC's comments (one revision).

Division Three: Site Construction Documents

1. Coordinate with Client and Architect on final site plan requirements.
2. Prepare Conceptual Design Review Board (DRB) submittal per City of Charleston requirements. Attend and provide input at DRB meeting (Architect shall also attend to present the building design). Package shall consist of all required site documents including:
 - a. Completed application form and fee (to be prepared by the Client or Architect).
 - b. A conceptual site plan (color rendered)
 - c. A conceptual landscape plan
 - d. Architectural drawings (provided by Architect)
 - e. Site photographs
 - f. Streetscape elevation drawing (provided by Architect)

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3. Coordinate and revise site plan to incorporate comments received at the Conceptual DRB meeting. Prepare Preliminary DRB submittal per City of Charleston requirements. Attend and provide input at DRB meeting (Architect shall also attend to present the building design). Package shall consist of the following:
 - a. Completed application form and fee (to be prepared by the Client or Architect).
 - b. A preliminary site plan (color rendered)
 - c. A preliminary landscape plan
 - d. Architectural floor plans (provided by Architect)
 - e. Architectural elevations (provided by Architect)
 - f. Building and wall sections (provided by Architect)
 - g. Material selections (provided by Architect)
 - h. Color rendering (provided by Architect, if required)
4. Coordinate and revise site plan to incorporate comments received at the Preliminary DRB meeting. Prepare Final DRB submittal per City of Charleston requirements and attend/provide input at DRB review meeting (Architect shall also attend to present the building design). Package shall consist of the same requirements as Preliminary DRB plus any specifically requested items.
5. Additional Final DRB submittals, should they be required for reasons that are beyond SW+'s control, shall be billed as additional services on an hourly rate basis.
6. SW+ will coordinate with the traffic engineer should TRC require a traffic study. Traffic engineer shall contract directly with the Client.
7. Prepare a TRC submittal reflecting site plan requirements and comments received at the Pre-Application Review to include the following:
 - a. Title Sheet
 - b. Existing Conditions Plan
 - c. Clearing and Demolition Plan
 - d. SWPPP Plan (const. drawings only-see note below)
 - e. Layout Plan
 - f. Grading and Drainage Plan
 - g. Water Plan (Design of any required offsite improvements is not included. Currently an existing 24" water main exists directly in front of the site. For this proposal we have assumed that we will be tapping this main in front of our site)
 - h. Sewer Plan (Design of offsite sewer main is included. Currently an existing 18" sewer main exists on the other side of the Maybank Highway. For this proposal we have assumed that we will need to jack and bore underneath Maybank Highway to obtain sewer for the site)
 - i. Planting Plans
 - j. Plant Schedule and Planting Details
 - k. Fire Protection Plan
 - l. ADA accessibility Plan
 - m. Architectural Elevations (by Architect)
 - n. Drainage Report
 - o. C-SWPPP Notebook
 - p. Traffic Impact Study (by others)
8. Submit to City and make presentation at TRC meeting. (Submittal #1)

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9. Revise plans to address TRC comments. Resubmit (Submittal #2) to the City and attend TRC review meeting (2 TRC submittals and 2 meetings are included as part of this scope of services. Should additional TRC submittals be required, they will be billed at an hourly rate basis)
10. Coordinate with Client's geotechnical engineer on site and building grading requirements.
11. Coordinate with Client's or Architect's lighting consultant on site lighting. Light pole locations will be shown on the site and landscape plans.
12. Based on comments received from the TRC meetings, the following additional sitework construction drawings will need to be prepared:
 - a. Drainage Culvert Profiles
 - b. Sewer Profiles
 - c. Site Infrastructure Details
 - d. Traffic Control Plan (excluding construction period traffic control—construction period traffic control and jobsite safety are the sole responsibility of the Contractor)
 - e. Water System Calculations
 - f. Technical Specifications
13. Provide additional landscape construction documents to include the following:
 - a. Irrigation Plan (through an irrigation supply house)
 - b. Specialty Landscape Details for specialty pavements
 - c. Technical Specifications
14. Submit construction drawings to the agencies having jurisdiction for review and permitting, including the following as applicable:
 - a. City of Charleston Engineering Dept. (roads and drainage)
 - b. Charleston Water Systems (water and sewer)
 - c. SCDHEC (water and sewer via delegated review)
 - d. SCDHEC-OCRM (Coastal Zone Consistency)
 - e. SCDOT (encroachment permit, required for driveway improvements, water main tap and sewer jack and bore)
 - f. Local power, telephone and cable television companies

Notes:

1. *It is assumed that the entire project will be designed and permitted in one phase.*
2. *Geotechnical studies, environment audits, structural design of retaining walls greater than 3' in height, design of site lighting, traffic studies, and other supporting services not defined in the scope of this proposal, should they be required, will provided by the Client through separate contract with outside consultant(s).*
3. *LEED Certification efforts are not included. If desired, these services can be provided as an additional service on an hourly rate or negotiated fee basis.*
4. *Client shall be responsible for the payment of application and permit fees, impact and tap fees, inspection fees, maintenance fees, bonds, and other agency charges associated with the permitting and construction of the Project.*

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5. *It is our understanding that the current property zoning supports the intended use. This proposal does not include any efforts required for rezoning of the property or efforts for variances or special use exceptions for the project. Should our assistance in these efforts be requested it will be provided as additional services on an hourly rate basis.*
6. *Design of specialty details for structural landscape elements that are primarily of a decorative nature, such as fountains, statues, monuments, decorative fences, pergolas, decorative courtyards or plazas, decorative stairways, retaining walls and other similar elements that are not specifically identified above, are not included in this proposal. Should they be requested, they will be charged as additional services on an hourly rate basis.*
7. *Coverage under the SC NPDES General Permit for Construction Activities (NPDES) is required prior to initiation of land disturbing activities. A prerequisite to coverage is the submittal to, and approval of, a SWPPP by the local agency having jurisdiction under the SCDHEC MS4 program. In addition to initial erosion and sediment control measures, the SWPPP also includes various other provisions outside of the scope of the construction drawings. The SWPPP is intended to be a framework outlining measures that are intended to be implemented and maintained throughout the construction period. As a result, additional efforts related to the implementation, maintenance, and updating of the SWPPP are required during construction. Some of these must be performed by SW+ and others can be performed by SW+ or other parties. See below for additional information.*
8. *Opinions of probable costs that are prepared by SW+ shall be based on its experience and qualifications and represent its judgment as a Consultant familiar with the construction industry but shall not be a guarantee that construction costs will not vary from its opinions of probable cost.*
9. *SW+ recognizes that design refinement and problem solving are iterative processes. However, it must also be recognized that excessive and continuous design changes are impossible to accurately quantify and are, therefore, outside of the scope of this proposal. We understand that a design will evolve during the submittal and review processes and we do intend for these types of adjustments to be included. However, extensive and continuous design changes that are beyond the scope of those typical for a project of similar size and complexity will be charged as additional services on an hourly rate basis.*
10. *Early in the design process, the Client shall coordinate with SW+ to establish a site work and landscaping construction budget. Once the budget is established, project design will proceed in accordance with the scope and quality criteria defined as the basis for preparing the budget. After final design and preparation of CD's is underway, any Client requested changes that are inconsistent with the originally established scope and quality criteria will be charged as additional services on an hourly rate basis.*

Division Four: Required Construction Phase Services

The Client is advised that SW+ must perform, at a minimum, the construction phase services listed below. These services are necessary in order to: a) provide observations and supporting documentation that is required as a condition of the construction permits; and b) in order to provide to the Client and ourselves, a reasonable level of assurance that the Work is in general compliance with the requirements of the Construction Contract Documents (CCD's).

1. Provide drawings and specifications to Client/Architect for inclusion in Bid Documents and respond to bid related questions from the Client/Architect.

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2. During construction, interpret plans, and answer Contractor questions when requested. (including all RFI's).
3. Review Contractor's site work related shop drawing and product data submittals to confirm general conformance with the requirements of the Contract Documents.
4. Provide construction observation as follows:
 - a. Schedule, attend, and document two preconstruction meetings prior to initiation of work on key Project systems. Such meetings shall be intended to facilitate communication and to minimize potential mistakes by the installing personnel due to a misunderstanding of the Work requirements.
 - b. SW+ shall visit the site 4 times during construction, in order to observe the progress and quality of the work completed by the Contractor. Such visits and observations are not intended to be an exhaustive check or a detailed inspection of the Contractor's work but rather allow SW+, as an experienced professional, to become generally familiar with the work in progress and to determine, in general, if the work is proceeding in accordance with the CCD's.
 - c. Based on this general observation, SW+ shall keep the Client informed about the progress of the work and shall endeavor to guard the Client against deficiencies in the work.
 - d. SW+ shall not supervise, direct, or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences, or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the work. These rights and responsibilities are solely those of the Contractor in accordance with the CCD's.
 - e. SW+ shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the work, or any agents or employees of any of them. SW+ does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its work in accordance with the CCD's or any applicable laws, codes, rules, or regulations.
5. Provide the necessary services in order to comply with standard conditions of the water and sewer construction permits and to support commissioning efforts required to occupy the project at completion, including but not limited to:
 - a. Witness tests of the water and sewer lines.
 - b. Provide preliminary review of water and sewer systems.
 - c. Receive and review as-built surveys and water system valve cards and any required plats provided by Client's surveyor. Drafting efforts by SW+ to compile, revise, or otherwise provide as-built or record drawings will be billed as additional services on an hourly rate basis.
 - d. After the above items are satisfactorily completed and passing water system bacteriological test have been performed, schedule and attend final inspections of the water and sewer systems with the applicable agencies.
 - e. Schedule and attend roadway and drainage system inspections as required by the local agencies having jurisdiction.
 - f. Coordinate with the agency having jurisdiction with regard to their inspection requirements of the stormwater management facilities. If required periodic SWPPP inspections are to be performed by others, attend periodic meetings or otherwise confirm that inspections and other required SWPPP

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administrative actions are being performed in general conformance with NPDES requirements. For the purpose of this proposal, we assume six (6) meetings onsite to discuss compliance with the SWPPP.

- g. Prepare Letters of Certification for the systems, as well as other engineer prepared commissioning paperwork required by local utilities for Permits to Operate. Coordinate additional commissioning paperwork prepared separately by the Client, Client's attorney, Client's surveyor, and Contractor. Compile and submit commissioning packages to local utilities for Permits to Operate.

Division Five: Additional NPDES (SWPPP) Construction Phase Services (Optional)

NPDES compliance requires inspection and administrative efforts by the Client, Contractor, SW+, or a third party provider throughout the construction period. At the Client's request, SW+ can provide the following additional NPDES related construction phase services. Item 1 will be provided for a lump sum fee and Item 2 will be provided on a per weekly visit basis until all land disturbing activities are completed. Due to certification requirements, SW+ cannot provide Item #1 without the inclusion of Item #2.

1. Pre-construction and administrative services (lump sum):
 - a. Prepare a SWPPP Notebook to be maintained on the project site for reference by authorized personnel. This notebook shall contain relevant Project construction drawings, inspection logs, and other documentation required by regulatory agencies.
 - b. Install and maintain a weatherproof document enclosure to house the SWPPP at the project site. The enclosure will be secured with a combination lock and marked with a telephone number to call for authorization and access.
 - c. Conduct a pre-construction conference and prepare and distribute meetings minutes.
 - d. Revise the relevant construction drawings as required in response to changing project conditions. It is estimated that a total of one revision will be required for the Project. Should more numerous revisions be required due to conditions that are beyond SW+'s control, they will be provided on an hourly rate or basis.
2. Inspections, documentation and reporting (per weekly visit):
 - a. Coordinate with Contractor, throughout the project, on issues related to implementation and maintenance of the SWPPP.
 - b. Provide weekly site inspections of stormwater improvements and SWPPP measures and prepare and distribute reports documenting the observations and any deficiencies requiring correction. EPA regulations require that inspections be performed weekly for the entire period that land disturbing operations are underway. Once operations are complete, a Notice of Termination is filed and the inspections can then stop.
 - c. File reports with the agency having jurisdiction at required intervals.

Fees:

We will provide the indicated services for the following fees:

Division One: Preliminary Master Planning (Hourly Rate Basis up to a maximum of) \$6,900.00

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Division Two: Conceptual Design..... (Hourly Rate Basis up to a maximum of) \$10,200.00
Division Three: Site Construction Documents \$37,485.00
Division Four: Construction Phase Services..... Estimated Fee Range - \$9,000.00 - \$11,000.00
Division Five-1: Pre-Construction NPDES Services (Optional)..... \$2,000.00
Division Five-2: NPDES Inspections & Reporting (Optional) \$250.00 per weekly site visit

When an estimated fee range is indicated, this estimate was made based on current understanding of project scope and/or construction duration. If it becomes apparent that this estimate will be exceeded, we will notify Client in advance of reaching the upper limit of the indicated range.

SW+ current hourly rates are as follows:

Principal in Charge.....	\$200.00
Managing Principal.....	\$180.00
Director.....	\$160.00
Senior Landscape Architect.....	\$145.00
Senior Civil Engineer.....	\$145.00
Senior Project Manager.....	\$140.00
Construction Administration Project Manager.....	\$140.00
Landscape Architect.....	\$135.00
Civil Engineering Project Manager.....	\$135.00
Land Planner III.....	\$125.00
Civil Engineering Project Coordinator.....	\$125.00
Construction Administration Project Coordinator.....	\$125.00
Entitlements Manager.....	\$120.00
Land Planner II.....	\$115.00
Engineer-in-Training.....	\$115.00
Construction Administration Field Representative.....	\$115.00
Land Planner I.....	\$100.00
Assistant Permitting Coordinator.....	\$100.00
CAD Technician.....	\$90.00
Professional Support (Information Technology, Marketing, etc.).....	\$75.00
Administrative Support.....	\$50.00

Office reimbursable expenses will be billed at the rates listed in the table below plus a 10% handling fee:

Mileage outside of the local area	\$0.54 per mile
<i>(Local area is defined as the metropolitan area of the originating office of the proposal)</i>	
Printing of construction and project drawings (\$0.40 per sq ft)	
24 x 36	\$2.40 each

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30 x 42	\$3.50 each
36 x 48	\$4.80 each
Color inkjet plotting (\$8.00 per sq ft)	
24 x 36	\$48.00 each
30 x 42	\$70.00 each
36 x 48	\$96.00 each
Black and white inkjet plotting (\$2.00 per sq ft)	
24 x 36	\$12.00 each
30 x 42	\$17.50 each
36 x 48	\$24.00 each
Black and white Xerox copies	
8½ x 11	\$0.20 each
8½ x 14	\$0.25 each
11 x 17	\$0.35 each
Color Xerox copies	
8½ x 11	\$1.00 each
8½ x 14	\$2.75 each
11 x 17	\$3.50 each

Other project related reimbursable expenses, such as but not restricted to, outside consultants, postage, long distance telephone calls, travel expenses, courier fees, and agency permitting fees will be billed at actual cost plus a 10% handling fee. Fees and reimbursable expenses will be invoiced every 4 weeks.

Should you find this Contract and attached General Terms of Agreement acceptable, please confirm by signing in the space provided below and return one executed original to our office. We look forward to working with you on this project.

Should you have any questions or need additional information, please call our office.

SEAMON, WHITESIDE & ASSOCIATES, INC.



Stuart D. Whiteside, PE
Principal

SDW/wro

Accepted By:

Signature and Title

Date

SEAMON, WHITESIDE & ASSOCIATES, INC. (SW+/CONSULTANT)**GENERAL TERMS OF AGREEMENT**

1. **The Agreement.** This document/agreement will serve as a contract for the proposed professional services. This Agreement is to be governed by the law of the State of South Carolina. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. This Agreement can be supplemented or amended only by a written document executed by both parties. Provided, however, that any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
2. **Consultant's Scope of Services and Additional Services.** The Consultant's undertaking to perform professional services extends only the services specifically described in this Agreement. However, if requested by the Client and agreed by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including in-house duplicating, local mileage, telephone calls, postage, and word processing.
3. **Period of Services.** Unless otherwise stated herein, the Consultant will begin work timely after receipt of a properly executed copy of this Agreement. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months (cumulatively), Consultant's compensation shall be renegotiated. Furthermore, if the services covered by this Agreement have not been completed within 12 months of the date hereof, through no fault of SW+, the amounts of the compensation, rates and multiples set forth herein are subject to equitable adjustment.
4. **Assignment.** Neither party to this Agreement shall transfer, sublet or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may be due, without the prior written consent of the other party. Client may assign Agreement with prior written consent of the Consultant. Subcontracting to subconsultants, normally contemplated by the Consultant as a generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.
5. **Execution Authority.** The individual executing this Contract, if acting on behalf of a partnership, corporation, or funding agency, represents that he has the authority to do so.
6. **Changed Conditions.** The Client shall rely on the Consultant's judgment as to the continued adequacy of this agreement in light of occurrences or discoveries that were not originally contemplated by or known to the Consultant. Should the Consultant call for the contract renegotiation, the Consultant shall identify the changed conditions necessitating renegotiation and the Consultant and the Client shall promptly and in good faith enter into renegotiation of this Agreement. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.
 - 6.1. The Consultant shall put forth reasonable professional efforts to comply with codes, regulations, ordinances, and laws in effect as of the date of the Agreement. Modifications to said ordinances, regulations, etc. that occur after the Agreement date and that would impact the project through an expansion of services would constitute additional services.
7. **Termination.** The Client may terminate this agreement at any time with or without cause upon giving the other party fifteen (15) calendar days prior written notice. The Client shall within seven (7) calendar days of termination pay the Consultant for all services rendered and all costs incurred up to the date of termination, in accordance with the compensation provisions of this contract. The consultant may terminate this agreement due to non-payment beyond 90 days.

8. **Standard of Care.** In providing services under this agreement and complying with applicable laws, ordinances, and regulations, including the Americans with Disabilities Act, the Consultant will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality.
 - 8.1. The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet for accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Client acknowledges that the requirements of the ADA will be subject to various and possibly contradictory interpretations. The Consultant, therefore, will use his or her reasonable professional efforts to interpret applicable ADA requirements and other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the project. The Consultant, however, cannot and does not warrant or guarantee that the Client's project will comply with interpretations of ADA requirements and/or requirements of other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the project.
9. **Client's Responsibilities.** In addition to other responsibilities described herein or imposed by law, the Client shall:
 - 9.1. Designate in writing a person to act as its representative with respect to this Agreement, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
 - 9.2. Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project including all numerical criteria that are to be met and all standards of development, design, or construction.
 - 9.3. Furnish, at the Client's expense, all information, requirements, geotechnical reports, data, surveys and instructions required by this Agreement. The Consultant may use such information, requirements, geotechnical reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof.
 - 9.4. Arrange for access to the site and other private or public property as required for the Consultant to provide its services.
 - 9.5. Review all documents or oral reports presented by the Consultant and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the Consultant.
 - 9.6. Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the scope, timing, or payment of the consultant's services or any defect or noncompliance in any aspect of the project.
 - 9.7. Bear all costs for the payment of fees associated with the project. Such fees would include but not be limited to permit review and application fees, impact fees, and capacity fees. The Consultant will notify the client regarding the amount of fees and timing of payment.
10. **Method of Payment.** The Client agrees to pay the Consultant's invoices in a timely manner.
 - 10.1. The Client agrees to pay the Consultant for work performed in accordance with the terms of this Contract, without regard to the success of the project.
 - 10.2. For any payment, not reasonably in dispute, that is not received within 45 days, the Client shall pay a service charge on the past due amount, including interest at the rate of 1½% per month.
 - 10.3. If payment is not received within 90 days, the Consultant may at their option and with five days written notice, suspend services or terminate this Agreement on the grounds of substantial nonperformance by the Client. Should SW+'s right of suspension or termination be exercised, they shall not be liable to the Client for delays or damages caused by the suspension or termination.
 - 10.4. Payments on invoices submitted by SW+ for services performed shall not be delayed, postponed or otherwise withheld pending completion or success of construction, or receipt of funding from lending institutions, government grants, or other sources.
 - 10.5. No deductions shall be made from the Consultant's compensation on account of liquidated damages or on account of cost in changes in the Work, other than those for which the Consultant has been finally determined to be liable. Invoices for payment shall not be offset by any claims for withholding or deductions by the Client unless the Consultant agrees or has been finally determined liable for such amounts.

- 10.6. The Consultant shall be entitled to reimbursement by the Client for reasonable fees and expenses when collection through an attorney or collection agency is necessary.
11. **Fees Not Dischargeable.** The Client agrees that any debt owed to the Consultant for professional services provided is non-dischargeable in bankruptcy meaning that any fees owed would survive in the event that the Client should ever declare bankruptcy.
12. **Fee Resolution.** The parties hereto consent that the exclusive forum for resolving any fee dispute/claim arising under this agreement shall be the Court of Common Pleas (Non-Jury) in the county of the originating office of this proposal: Charleston County or Greenville County, South Carolina.
13. **Dispute Resolution.** In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the Consultant and Client agree that all disputes between them arising out of or relating to this Agreement shall be submitted first to mediation in accordance with the Construction Industry Mediation Procedures of the American Arbitration Association as a precedent to litigation.
14. **Attorney Fees.** In the event legal action is necessary to enforce the payment terms of this Agreement, the Consultant shall be entitled to collect from the Client any judgment or settlement sums due, plus reasonable attorneys' fees, court costs and other expenses incurred by the Consultant for such collection action and, in addition, the reasonable value of the Consultant's prevailing fee schedule and expense policies.
15. **Statutes of Limitations.** Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for Acts or failures to act occurring prior to Substantial Completion or the date of issuance of the final Certificate for payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Consultant's services are substantially completed.
16. **Limitation of Liability.** The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold the Client harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the Consultant's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of his or her subconsultants or anyone for whom the consultant is legally liable. The Client agrees, to the fullest extent permitted by law, to indemnify and hold the Consultant harmless from any damage, liability or cost (including reasonable attorneys' fee and cost of defense) to the extent caused by the Client's negligent acts, errors or omissions and those of his or her contractors, subcontractors or Consultants or anyone for whom the Client is legally liable and arising from the project that is the subject of this Agreement. The Consultant is not obligated to indemnify the Client in any manner whatsoever for the Client's own negligence.
- 16.1. The Client agrees to limit the Consultant's liability to the Client and to all construction contractors and subcontractors on the project, due to the Consultant's negligent acts, errors or omissions, such that the total aggregate liability of the Consultant to all those named shall not exceed \$50,000.
17. **Certificate of Merit.** The Client shall make no claim for professional negligence, either directly or in a third party claim, against the Consultant unless the Client has first provided the Consultant with a written certification executed by an independent Consultant currently practicing in the same discipline as the Consultant and licensed in the State of South Carolina. This certification shall: a) contain the name and license number of the certifier; b) specify each and every act or omission that the certifier contends is a violation of the standard of care expected of a Consultant performing professional services under similar circumstances; and c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to the Consultant not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any arbitration or judicial proceeding.
18. **Insurance.** The Client is advised to seek the advice of a qualified insurance professional with regarding any and all insurance requirements for the project. The Consultant carries Workers' Compensation insurance, professional liability insurance and general liability, and automobile insurance. If the Client directs the Consultant to obtain increased insurance coverage, the Consultant will take out such additional insurance, if obtainable, at the Client's expense.

19. **Betterment.** If, due to the Consultant's error, any required item or component of the project is omitted from the Consultant's construction documents, the Consultant shall not be responsible for paying the cost to add such item or component to the extent that such item or component would have been otherwise necessary to the project or otherwise adds value or betterment to the project. In no event will the Consultant be responsible for any cost or expense that provides betterment, upgrade or enhancement of the project.
20. **Use of Documents.** SW+ and its subconsultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings, Specifications, Reports, Field Data, Notes and other documents whether handwritten or in electronic form, and shall retain all common law, statutory and other reserved rights, including copyrights thereto.
 - 20.1. The Client acknowledges the Consultant's construction documents, including electronic files, as the work papers of the Consultant and the Consultant's instruments of professional service. Nevertheless, the final construction documents prepared under this Agreement shall become the property of the Client upon completion of the services and payment in full of all monies due to the Consultant. Should the property be transferred to a third party, construction documents will transfer along with the property with the Consultant's written consent. The Client shall not reuse or make any modification to the construction documents without the prior written authorization of the Consultant. The Client agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from or allegedly arising from or in any way connected with the unauthorized reuse or modification of the construction documents by the Client or any person or entity that acquires or obtains the construction documents from or through the Client without the written authorization of the Consultant.
 - 20.2. Under no circumstances shall the transfer of ownership of the Consultant's drawings, specification, electronic files or other instruments of service be deemed a sale by the Consultant, and the Consultant makes no warranties, either express or implied, of merchantability and fitness for any particular purpose, nor shall such transfer be construed or regarded as any waiver or other relinquishment for the Consultant's copyrights in any of the foregoing, full ownership of which shall remain with the Consultant, absent the Consultant's express prior written consent.
21. **Electronic Documents.** The Consultant may furnish to the Client and other parties as required during the execution of the Work, documents in electronic form. The Client shall agree to the following terms with regard to distribution and use of documents in electronic form:
 - 21.1. In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by the Consultant, the Client agrees that all such electronic files are instruments of service of the Consultant, who shall be deemed the author, and shall retain all common law, statutory law and other rights, without limitation, including copyrights.
 - 21.2. The Client agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project. The Client agrees not to transfer these electronic files to others without the prior written consent of the Consultant (files transfer with property if sold to a third party, with Consultant's written consent. The Client further agrees to waive all claims against the Consultant resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than the Consultant.
 - 21.3. The Client and the Consultant agree that any electronic files furnished by either party shall conform to the project specifications. Any changes to the electronic specifications by either the Client or the Consultant are subject to review and acceptance by the other party. If the Consultant is required to expend additional effort to incorporate changes to the electronic file specifications made by the Client, these efforts shall be compensated for as Additional Services.
 - 21.4. Electronic files furnished by either party shall be subject to an acceptance period of fourteen (14) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic files shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.

- 21.5. The Client is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the Consultant and electronic files, the signed or sealed hard-copy constructions shall govern.
- 21.6. In addition, the Client agrees, to the fullest extent permitted by law, indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than the Consultant from any reuse if the electronic files without the prior written consent of the Consultant.
- 21.7. Under no circumstances shall delivery of electronic file for use by the Client be deemed a sale by the Consultant, and the Consultant makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the Consultant be liable for indirect or consequential damages as a result of the Client's use or reuse of the electronic files.
- 22. Construction Phase Services.**
- 22.1. If the Consultant's services include the preparation of documents to be used for construction and SW+ is not retained to make appropriate site observation visits, the Client assumes all responsibility for interpretation of the documents and for construction observation. It is further agreed that the Client will defend, indemnify and hold harmless Consultant from any claim or suit whatsoever, including but not limited to all payments, expenses or costs involved, arising from the contractor's performance or the failure of the contractor's work to conform to the design intent and the contract documents.
- 22.2. If the Consultant provides construction phase services, the Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall SW+ have any authority or responsibility to stop or direct the work of any contractor. The Consultant's observation visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. The Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
- 22.3. The Client agrees that it would be unfair to hold Consultant liable for problems that might occur should Consultant's plans, specifications or design intents not be followed, or for problems resulting from others' failure to obtain and/or follow Consultant's guidance with respect to any errors, omissions, inconsistencies, ambiguities or conflicts which are detected or alleged to exist in or as a consequence of implementing Consultant's plans, specifications or other instruments of service. Accordingly, the Client waives any claim against Consultant, and agrees to defend, indemnify and hold Consultant harmless from any claim for injury or losses that results from failure to follow Consultant's plans, specifications or design intent, or for failure to obtain and/or follow Consultant's guidance with respect to any alleged errors, omissions, inconsistencies, ambiguities or conflicts contained within or arising as a result of implementing Consultant's plans, specifications or other instruments of services. The Client also agrees to compensate Consultant for any time spent and expenses incurred by Consultant's prevailing fee schedule and expense reimbursement policy.
- 22.4. The Consultant is not responsible for any duties assigned to the Consultant in the construction contract that are not expressly provided for in this Agreement. The Client agrees that neither the professional activities of Consultant, nor the presence of Consultant's employees and sub-consultant at a construction site, shall relieve the general contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Consultant and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The Client agrees that the General Contractor is solely responsible for job safety, and warrants that this intent shall be made evident in the Client's Agreement with the general contractor. The Client also agrees that the Client, Consultant

and Consultant's subconsultants shall be indemnified and shall be made additional insureds under the general contractor's general liability insurance policy.

23. **Certifications.** The Consultant shall not be required to execute certifications or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or warrant the existence of conditions whose existence and accuracy the Consultant cannot ascertain, or that would cause the Consultant to violate applicable rules of professional responsibility. The Client also agrees not to make resolution of any dispute with the Consultant or payment of any amount due to the Consultant in any way contingent upon the Consultant's signing any such certification.
 - 23.1. The Client shall indemnify and hold the Engineer harmless from and against any and all judgments, losses, damages, and expenses (including attorney fees and defense costs) arising from or related to claims by third parties to challenge the issuance of permits or certificates for the Project by agencies with jurisdiction in the premises. Defense costs shall include the time and expenses of the Engineer's personnel to assist in the defense of the issuance of the permit or certificate.
24. **SWPPP Services.** Where the Consultant provides SWPPP related services, the information contained in the SWPPP represents a planning tool to assist the Client, and his co-permittees, in complying with environmental regulations during the Project construction. The decisions on how to operate the construction site rest solely with the Client/co-permittees and not with the Consultant. The Client agrees to indemnify the Consultant from damages and fines resulting from the operational decisions of the Client/co-permittees, or the failure of the Client/co-permittees to follow the recommendations as outlined in the SWPPP.
25. **NPDES Permit.** In instances where an NPDES Permit remains in effect beyond the termination of other services described in this proposal, the Consultant's responsibilities for SWPPP related services shall cease at a time concurrent with the termination of other services. If the Client wishes for SWPPP related services to continue beyond that time, they shall be agreed to under a separate Contract.
26. **Shop Drawing Review.** The Consultant shall review and approve Contractor submittals, such as shop drawings, product data, samples and other data, as required by the Consultant, but only for the limited purpose of checking for conformance with the design concept and the information expressed in the contract documents. The review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are sole responsibility of the Contractor. The Consultant's review shall be conducted with reasonable promptness while allowing sufficient time in the Consultant's judgment to permit adequate review. Review of specific item shall not indicate that the Consultant has reviewed the entire assembly of which the item is a component. The Consultant shall not be responsible for any deviations from the contract documents not brought to the attention of the Consultant in writing by the Contractor. The Consultant shall not be required to review partial submissions or those for which submissions of correlated items have not been received.
27. **Definition of "Hazardous Materials".** As used in this Agreement, the term hazardous materials shall mean any substances, including without limitation asbestos, toxic or hazardous waste, OCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site.
 - 27.1. **Hazardous Materials - Suspension of Services.** Both parties acknowledge that the Consultant's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the Consultant or any other person or entity involved in the project encounters any hazardous or toxic materials, or should it become known to the Consultant that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of the Consultant's services, the Consultant may, at its sole option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Client retains appropriate qualified consultants and/or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations

- 27.2. Hazardous Substances and Conditions.** This contract does not specifically address environmental pollution audits at any level, testing or visual inspection for environmental risks of pollution or hazardous materials with or relating to the site. Because of the Client waives any claim against the Consultant and agrees to defend, indemnify, and hold the Consultant harmless for any alleged environmental risks or hazardous materials. We further recommend that environmental audits, reports or cleanup be performed by the client in a timely manner and under separate contract.
- 28. Corporate Protection.** It is intended by the parties to this Agreement that the Consultant's services in connection with the Project shall not subject the Consultant's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the Consultant, a South Carolina corporation, and not against any of the Consultant's individual employees, officers or directors.



SUBDIVISION APPLICATION

TECHNICAL REVIEW COMMITTEE (TRC)/Planning Commission/Staff

CITY OF CHARLESTON
2 George Street, Charleston, SC 29401

Department of Planning, Preservation and Sustainability
843.724.3781
www.charleston-sc.gov/trc

The applicant and/or owner must complete the application below. A completed application, fee, and copies of the plans must be submitted to the Permit Center at 2 George Street per the published schedule of deadlines and meeting dates. **Incomplete applications and/or submittals will not be accepted.** The submittal requirements may be accessed at <http://www.charleston-sc.gov/trc>.

PROJECT/SUBMITTAL TYPE (check one; fee is charged for each review)	PUD or Concept Plan (TRC & Planning Commission)	Preliminary Plat (TRC)	Road Plans (TRC)
Requested Meeting Date(s):	1 st TRC review: <u>APRIL 4</u> 2 nd TRC review: <u>—</u> Planning Comm: <u>APRIL 17</u>	TRC review date: <u>—</u>	TRC review date: <u>—</u>
Minor Subdivision = 4 or fewer lots. See Sec. 54-808b	N/A	☐ \$100	N/A
Major Subdivision = 5 or more lots and/or a new road, new utility transmission line, new public school site, new public park, or the need for infrastructure construction plans. See Sec. 54-808a.	☒ PUD = \$800 Concept Plan = \$700	☐ 1 - 4 lots = \$100 5 - 20 lots = \$350 20 + lots = \$500	☐ \$600

Project name: <u>VILLAGE AT FENWICK</u>		City Project I.D. #:	
Street address: <u>MAYBANK @ FENWICK ALLEE</u>		Zoning: <u>PUD</u>	County: <u>CHS</u>
TMS#: <u>346-0000-004-076, (258, -259)</u>		Location (i.e. West Ashley): <u>Tobacco Island</u>	
Total acres: <u>44.89</u>		Wetlands: <u>—</u>	
Project description: <u>TEXT AMENDMENT TO PUD</u>		Phasing: ☒ No ☐ Yes, total # phases:	
# Lots/Units in phase & entire project: <u>—</u>		Smallest/Largest Lot Sizes: <u>—</u>	
Roads: ☐ Public ☐ Private <u>N/A</u> Water: ☐ Public ☐ Private (Well) <u>N/A</u> Sewer: ☐ Public ☐ Private (Septic) <u>N/A</u>			
Subdivision complies with existing neighborhood (i.e. HOA) covenants?		☒ N/A ☐ Yes ☐ No	
List dates & types of previous TRC reviews: <u>N/A</u>			
List other review board approvals required or received (ex: BZA): <u>Ref. PC + City Council</u>			
Property Owner: <u>1776, LLC</u>		Phone #:	
Applicant: <u>Hellman John R. Trust, PA</u>		Phone #: <u>843-437-4636</u>	
Contact Name: <u>Brian Hellman</u>		Email: <u>bhellman@jtr.com</u>	
Applicant is: ☐ Owner ☐ Engineer ☐ Surveyor ☐ Architect ☐ Landscape Architect ☐ Contractor ☒ Other <u>Attorney</u>			
Applicant's mailing address (street, city, state, zip): <u>105 BROAD ST, 3rd Floor, 29401</u>			

I hereby acknowledge by my signature below that this application and submittal are complete and accurate. My signature also confirms that I represent all legal owner(s) of the subject property. I understand that additional information or clarification may be requested during the review process prior to approval. I authorize the subject property to be inspected and this application to be heard by the TRC. I understand that incomplete submittals will not be accepted.

Applicant's signature: [Signature]

Date: 3/18/19

SUBMITTAL REQUIREMENTS:

- ☐ Application ☒ Fee
- ☒ 8 copies for Concept, Prelim Plat & Road Plans
- ☐ 3 copies for Final Plat
- ☐ 8 copies of responses to previous review comments
- ☐ Supporting docs as needed (i.e. MS4 info, traffic study, 2 copies of drainage report etc.)

OFFICE USE	date & time received: <u>3/18/19 12N</u>	fee: <u>\$800</u>	receipt #: <u>2253</u>	staff: <u>[Signature]</u>
Results: ☐ Approved ☐ Approved w/ conditions ☐ Revise & resubmit ☐ Deferred ☐ Disapproved Date: <u>3/18/19</u>				

SubdivisionApplication_TRC&PC_updated01012019

\$800 owe "Exhibit E"



Ratification
Number 2019-102

AN ORDINANCE

TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) BY AMENDING PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN AND DEVELOPMENT GUIDELINES FOR PROPERTY LOCATED ON RIVER ROAD AND MAYBANK HIGHWAY (THE VILLAGE AT FENWICK PUD – JOHNS ISLAND) (APPROXIMATELY 44.891 ACRES) (TMS# 346-00-00-004, 076 AND PORTIONS OF 346-00-00-258 AND 259).

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That the Zoning Ordinance of the City of Charleston be, and the same hereby is amended, by amending The Village at Fenwick Planned Unit Development Master Plan and Development Guidelines as more fully described in the document titled “First Amendment to Amended and Restated Planned Unit Development Guidelines – The Village at Fenwick” which is attached hereto and made part hereof:

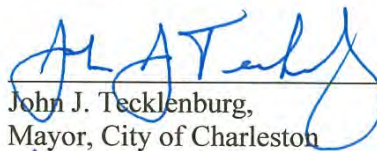
Section 2. The Village at Fenwick Planned Unit Development Master Plan and Development Guidelines be amended for property described as follows:

Property located off River Road and Maybank Highway (approximately 44.891 acres) (TMS# 346-00-00-004, 076 and portions of 346-00-00-258 and 259).

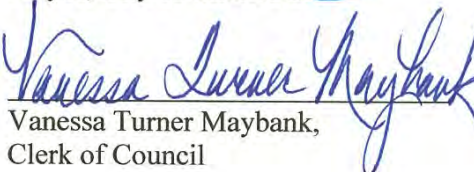
Section 3. This Ordinance shall become effective upon ratification.

Ratified in City Council this 8th day of
October in the Year of Our Lord
2019, in the 244th Year of Independence of the
United States of America.

By:


John J. Tecklenburg,
Mayor, City of Charleston

Attest:


Vanessa Turner Maybank,
Clerk of Council

“Exhibit F”

FIRST AMENDMENT TO AMENDED AND RESTATED PLANNED UNIT DEVELOPMENT GUIDELINES

The Village at Fenwick

Charleston, South Carolina

ID# 150928-RiverRd-1



This First Amendment to Amended and Restated Village at Fenwick PUD Master Plan was approved by the City of Charleston on _____, Ordinance Number _____.

The following Sections of the Amended and Restated Planned Unit Development Guidelines for the Village at Fenwick shall be modified and amended as stated below:

III. PUD Land Uses and Development Regulations

A. Land Uses

3. **Village at Fenwick Mixed Use Commercial (VFMC)** designated area(s) will allow moderate intensity mixed use, residential, and commercial. The following uses shall be permitted:
 1. Uses permitted in the GB district, except that commercial hours of operation shall be limited to ~~7 a.m.~~ 5 a.m. to 12 a.m.; provided that Food Stores, Eating Places located within Food Stores, Drug Stores, and their related, ancillary, or similar commercial uses located within such Food Store or Drug Store shall not be subject to the above limited hours of operation.

Note: VFMC areas will be under purview of the Design Review Board (DRB).

B. Development Regulations

All lots must conform to dimensional, density, and zoning requirements as found in the following chart:

	VFMR	VFMC
Minimum Building Frontage along Right of Ways	None	~~65%~~ <u>None</u>

2. Development standards for **Village at Fenwick Mixed-Use Commercial (VFMC)**
 - e) Individual commercial building footprints shall be limited to 30,000 square ft. max. footprint area; provided that a single building with a 55,000 square ft. max. footprint shall be allowed provided that: (i) such building is located in the area identified in Appendix M, and (ii) no other building in the VFMC exceeds a 15,000 square ft. max. footprint.

VI. Streets, Sidewalks, and Trails

- F. No new driveway or street connection to Maybank Highway shall be permitted from the planned development except for the planned 'Pitchfork Road', ~~subject to the approval of~~ unless approved by the City of Charleston Traffic and Transportation Department, Zoning Administrator, and SCDOT, as applicable. No new street or driveway connections from the planned development to River Road shall be permitted except for the planned 'Pitchfork Road' connection. The existing vehicular connection from TMS 346-00-00-008 to Maybank Highway may remain. Approval of this PUD shall remove and replace the language found in restrictive covenant #4 pertaining to parcel 346-00-00-076 found in (Bk Y166, Pg 522; Bk V142, Pg 434) with the language found in this paragraph. See Appendix E for Restrictive Covenants. Vehicular connections to the Village at Fenwick shall be provided along the new Pitchfork Road. There shall be no more than one (1) curb cut in each side of the Pitchfork Road per every five hundred (500') feet of roadway unless

otherwise agreed to, in writing, by the Zoning Administrator for the City of Charleston, who may require the approval of the City Traffic and Transportation Department and the property owners representing the majority of the PUD acreage.

XIV. Appendices

*First Amendment to Amended and Restated
Planned Development Guidelines
Village at Fenwick
April 4, 2019*

APPENDIX M

ELECTRONICALLY FILED - 2020 Aug 24 5:15 PM - CHARLESTON - COMMON PLEAS - CASE#2020CP1000209





BP0843506

PGS:

131

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF CHARLESTON, SOUTH CAROLINA,
AND 1776, LLC**

This DEVELOPMENT AGREEMENT (together with the recitals and exhibits attached hereto, the "Agreement") is entered into effective as of the 27th day of November, 2019 (the "Effective Date"), by and between the City of Charleston, a political subdivision of the State of South Carolina (the "City") and 1776, LLC, a South Carolina limited liability company ("Owner"). The City and Owner are sometimes separately referred to in this Agreement as a "Party" or jointly referred to as the "Parties."

RECITALS

This Agreement is predicated upon the following:

A. The South Carolina Local Government Development Agreement Act, codified at sections 6-31-10 through 160 of the South Carolina Code, as it exists on the Effective Date of this Agreement (the "Act"), enables municipalities to enter into development agreements with persons and entities intending to use or develop real property under certain conditions set forth in the Act.

B. Pursuant to section 6-31-30 of the South Carolina Code the City Council of Charleston, South Carolina (the "City Council") enacted section 23-20 of the City Code (the "Ordinance"), which establishes the procedures and requirements for considering and entering into development agreements.

C. The Owner is the owner of legal title to the Real Property (as hereinafter defined) on the Effective Date.

D. The Owner has generously agreed to donate substantially all of the real property required to construct the Northern Pitchfork Road, which will assist the City in providing much needed traffic relief on Johns Island

E. On January 12, 2016, City Council adopted Ordinance Number 2016-005, zoning the Real Property to Planned Unit Development ("PUD") and adopting the Planned Unit Development Guidelines for the Village at Fenwick (the "Guidelines") as the development plan for the Real Property. A copy of this ordinance is attached hereto and incorporated herein by reference as Exhibit A.

F. On December 18, 2018, the City Council adopted Ordinance Number 2018-164, amending the PUD zoning applicable to the Real Property by adopting the Amended and Restated Planned Development Guidelines for the Village at Fenwick (the "Amended Guidelines") as the amended development plan for the Real Property, with the effectiveness of the Amended Guidelines to begin on January 13, 2019. A copy of this ordinance is attached hereto and incorporated herein by reference as Exhibit B.

G. Pursuant to the Act and Ordinance, the City's Planning Commission conducted a public hearing regarding its consideration of this Agreement on November 26, 2018, and the City Council conducted a public hearing regarding its consideration of this Agreement on December 4, 2018.

H. Pursuant to section 6-31-60(A)(7) of the South Carolina Code, on December 18, 2018, City Council adopted Ordinance Number 2018-169, determining that this Agreement is consistent with the Comprehensive Plan, the Act, the City Code, and the Land Development Regulations, and approving of this Agreement. A copy of Ordinance Number 2018-169 is attached hereto and incorporated herein by reference as Exhibit C.

NOW THEREFORE, in consideration of the premises of this Agreement and the mutual benefits to the parties, the Parties agree as follows:

1. The Real Property. The Real Property subject to this Agreement (the "Real Property") is identified in Exhibit D, attached hereto and incorporated by herein reference. The Real Property contains at least twenty-five (25) acres of highland.

2. Definitions. In this Agreement, unless the word or phrase is non-capitalized:

(a) "Act" means the South Carolina Local Government Development Agreement Act, codified at sections 6-31-10 through -160 of the South Carolina Code, as it exists on the Effective Date of this Agreement.

(b) "Agreement" means this Development Agreement, including the recitals and exhibits attached hereto.

(c) "City" means the City of Charleston, South Carolina.

(d) "City Code" means the Code of the City of Charleston, South Carolina.

(e) "City Council" means the City Council of Charleston, South Carolina (the "City Council")

(f) "Comprehensive Plan" means the Charleston Century V Plan, Ordinance No. 2000-179, as amended through the Effective Date, adopted pursuant to section 6-29-510 through 540 of the South Carolina Code, and the official map adopted pursuant to section 6-7-1210 through 1280 of the South Carolina Code, a copy of which is on file in the Planning Department.

(g) "Current Regulations" means the Comprehensive Plan and Land Development Regulations, as amended through December 4, 2018, all of which are on file in the Planning Department, except that the Guidelines shall apply through January 12, 2019, and the Amended Guidelines shall apply thereafter.

(h) "Development" means the planning for or carrying out of a building activity or mining operation, the making of a material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels, and is intended by the Parties to include all uses of, activities upon or changes to the Real Property as are authorized by the Current Regulations and this Agreement. "Development," as designated in a law or development permit, includes the planning for and all other activity customarily associated with Development unless otherwise specified. When appropriate to the context, "Development" refers to the planning for or the act of developing or to the result of Development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not Development. Reference to particular operations is not intended to limit the generality of this item.

(i) "Development Parcel" means any tract of land, whether platted or not, on which Development may occur, including but not limited to Lots, but excluding street rights-of-way.

(j) "Land Development Regulations" means ordinances and regulations enacted by the City for the regulation of any aspect of Development and includes zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the Development or use of property, including storm water and drainage, but specifically excluding road construction specifications.

(k) "Lot" means a Development Parcel identified in an approved subdivision plat recorded in the ROD.

(l) "Ordinance" means section 23-20 of the City Code, which establishes the procedures and requirements for considering and entering into development agreements.

(m) "Parties" means the Owner and City.

(n) "Planning Department" means the City's Department of Planning, Preservation and Sustainability, established under sections 23-16 through 23-19 of the City Code.

(o) "Property Owner" or "Owner" means 1776, LLC, which is the sole legal and equitable owner of the Real Property on the Effective Date.

(p) "Real Property" is the real property referred to in Paragraph 1 of this Agreement and includes any improvements or structures customarily regarded as part of real property.

(q) "ROD" means the Office of the Register of Deeds for Charleston County, South Carolina.

3. Parties. The Parties are the Owner and the City

4. Relationship of the Parties. This Agreement creates a contractual relationship between the Parties. This Agreement is not intended to create, and does not create, the relationship of master/servant, principal/agent, independent contractor/employer, partnership, joint venture, or any other relationship where one Party may be held responsible for acts of the other Party. Further, this Agreement is not intended to create, nor does it create, a relationship whereby the conduct of the Owner constitutes "state action" for any purposes.

5. Intent of the Parties. The Parties agree that the burdens of this Agreement bind, and the benefits of this Agreement shall inure to, each of them and to their successors and/or assigns in title. The City and the Owner are entering into this Agreement in order to secure benefits and burdens referenced in the Act.

6. Consistency Determination. This Agreement is consistent with the City's Comprehensive Plan and Land Development Regulations. Whenever express or implied substantive provisions of this Agreement are inconsistent with the provisions of the Guidelines (or Amended Guidelines, when applicable), the standards set forth in the Guidelines (or Amended Guidelines, when applicable) and the standards set forth in this Agreement shall, to the extent possible, be considered *in pari materia* to give effect to both the provisions of the Guidelines (or Amended Guidelines, when applicable) and this Agreement; provided, however, that in the event of a conflict, and subject to the provisions of section 6-31-80 of the South Carolina Code, the standards set forth in this Agreement shall govern.

7. Legislative Act. Any change in the standards established by this Agreement require the approval of City Council, subject to compliance with applicable statutory procedures and consistent with Paragraph 8 of this Agreement. This Agreement constitutes a legislative act of City Council. This Agreement shall not be construed to create a debt of the City as referenced in section 6-31-145 of the South Carolina Code, or otherwise.

8. Applicable Land Development Regulations.

(a) Applicable Laws and Land Development Regulations. Except as otherwise provided by this Agreement or by the Act, the laws applicable to the Development of the Real Property are the Current Regulations. Notwithstanding the foregoing, between the Effective Date and January 12, 2019, the Guidelines, as set forth in Exhibit A, shall constitute the development plan applicable to the Real Property. Beginning on January 13, 2019, the Amended Guidelines, as set forth in Exhibit B, shall constitute the development plan applicable to the Real Property. The uses permitted on the Real Property, including population densities and building intensities and heights, are those consistent with the Guidelines, and, beginning on January 13, 2019, the Amended Guidelines.

(b) Subsequent Regulations. The City may enact subsequent Land Development Regulations ("Subsequent Regulations") and apply them to the Real Property pursuant to the provisions of the Act. Notwithstanding the above, the City shall not apply Subsequent Regulations to the Real Property for the term of the Agreement unless, in accordance with the provisions of section 6-31-80(B) of the South Carolina Code, the City

has held a public hearing and has determined: (1) the Subsequent Regulations are not in conflict with the Agreement and do not prevent the Development set forth in the Agreement; or (2) the Subsequent Regulations are essential to the public health, safety, or welfare and the Subsequent Regulations expressly state that they apply to property that is subject to a development agreement; or (3) the Subsequent Regulations are specifically anticipated and provided for in this Agreement; or (4) the City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement, which changes, if not addressed by the City, would pose a serious threat to the public health, safety, or welfare; or (5) this Agreement is based on substantially and materially inaccurate information supplied by the Owner. In addition, the Owner has the sole discretionary right from time to time to consent in writing to Land Development Regulations adopted by the City after the Effective Date not otherwise enforceable under this Agreement on the Real Property, which written approval shall not constitute or require an amendment to this Agreement. The Owner's consent shall be memorialized in a written acknowledgment filed with the Planning Department in a form which is recordable in the ROD. The Planning Department may record such written acknowledgment with the ROD.

(c) Vested Rights. Subject to the provisions of Paragraphs 8(a) and 8(b) of this Agreement, all rights and prerogatives accorded the Owner by this Agreement shall immediately constitute vested rights for the use and Development of the Real Property.

(d) No Abrogation. This Paragraph 8 shall not be interpreted to abrogate any rights protected under section 6-31-140 of the South Carolina Code or any rights that may have vested pursuant to common law or otherwise in the absence of this Agreement.

9. Applicability of Other Laws.

(a) Standard Codes. Pursuant to section 6-31-160 of the South Carolina Code, notwithstanding any provision of this Agreement which may be construed to the contrary, the Owner shall comply with any building, housing, electrical, mechanical, plumbing, gas and other standard codes subsequently adopted by the City or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code, in effect at the time of applying for a permit. This Agreement shall not be construed to supersede or contravene the requirements of any building, housing, electrical, mechanical, plumbing, gas or other standard code subsequently adopted by the City or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code.

(b) Stormwater/Street Regulations. Notwithstanding any provision of this Agreement which may be construed to the contrary, the Owner shall comply with any stormwater, drainage or related regulations and any City road or street regulations in effect at the time of applying for a permit. Notwithstanding the foregoing, to facilitate the visions and objectives of the Amended Guidelines, to preserve the natural characteristics of historic Fenwick Hall and its surrounds, and to protect healthy grand live oaks, consideration should be given to preserving the existing topography of the Real Property and Development Parcels within the PUD to the extent practicable by utilizing engineered drainage systems where possible to minimize the use of fill for drainage purposes.

(c) Governmental Powers. Notwithstanding any provision of this Agreement which may construed to the contrary, the provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend in any way the rights, duties and privileges of the City to exercise governmental powers and pass laws not applicable to Development of the Real Property including, but not limited to, the power of eminent domain and the power to levy and collect taxes.

(d) Suppliers. Pursuant to section 6-31-140(A) of the South Carolina Code, notwithstanding any provision of this Agreement which may construed to the contrary, this Agreement is not intended nor may this Agreement be construed in any way to alter or amend in any way the rights, duties, and privileges of suppliers of electricity or natural gas or of municipalities with reference to the provision of electricity or gas service, including, but not limited to, the generation, transmission, distribution, or provision of electricity at wholesale, retail or in any other capacity.

10. Local development permits and other permits needed. The Parties anticipate that the following local development permits and other regulatory permits will be needed to undertake development of the Real Property

Zoning permits, plat approvals (preliminary, conditional or final), road and drainage construction plan approvals, building permits, certificates of occupancy, water and/or sewer development contracts, and utility construction and operating permits, as well as permits from the South Carolina Department of Health and Environmental Control, South Carolina Department of Transportation, and the US Environmental Protection Agency.

The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Owner of the necessity of complying with all laws governing permit requirements, conditions, terms, or restrictions.

11. Facilities, Services and Public Uses.

(a) Generally. At this time, required facilities and services for the current uses of the Real Property are in place. The City does *not* provide water and sewer services. Subject to compliance with applicable Land Development Regulations, the provisions of this Agreement, and prior approval of construction plans by the City or other applicable governmental entity, the Owner may undertake Development of the Real Property as authorized by the Current Regulations and the Guidelines (or the Amended Guidelines, when applicable), but shall be responsible for providing adequate infrastructure facilities and services necessary to support its Development at the time the Development is undertaken, to include without limitation roads, water and sewer, electricity, and drainage. Ownership and maintenance of road and drainage facilities may, at the option of the Owner, be tendered to the City and will be accepted by the City if at the time of tender the roads and drainage facilities are constructed in accordance with then applicable City ordinances, rules, regulations or specifications, are in good condition, and are not subject to any

monetary or other lien. Nothing herein shall be construed to excuse compliance with standards as may be imposed by federal, state or county laws, rules or regulations.

(b) Northern Pitchfork Road. Pursuant to section 6-29-60(A)(5) of the South Carolina Code, the Parties recognize that, in consideration of this Agreement, Owner agrees to deed, or has deeded, fee simple title to the portion of the "Northern Pitchfork Road" and supporting facilities, including but not limited to drainage facilities, lying on the Owner's real property to the City, according to the plans for such road and related facilities approved by the City of Charleston and/or Charleston County as of the Effective Date. The Owner's contribution of this land shall be recognized by the City in considering any necessary requirements under the Land Development Regulations for addressing future traffic impacts caused by the Development of the Real Property.

12. Schedule for Development.

(a) Commencement Date: The Development of the Real Property will be deemed to commence on the Effective Date.

(b) Schedule of Completion Dates: The Owner estimates, in good faith, that during the years after the Effective Date, the following Development, including total number of dwelling units and population, may be complete:

<u>YEAR</u>	<u>UNITS</u>	<u>POPULATION</u>
1	0	0
2	0 – 125	0 – 275
3	125 – 250	275 – 550
4	250 – 375	550 – 825
5	375 – 500	825 – 1,100

(c) Completion Date: The Owner estimates that the Development should be substantially completed, i.e. essentially all structures necessarily erected and/or necessary infrastructure in place to serve the intended uses, within ten (10) years of the Effective Date.

(d) Modification of Commencement or Completion Date: The City recognized that the Development on the Real Property will include a variety of uses and that demand, cost, environmental factors, and other pertinent financial and feasibility considerations fluctuate. Accordingly, the commencement date, interim completion dates, and completion date set forth in this Agreement are good faith estimates only. The timing of the actual Development of the Real Property will likely differ because of the multiple variables influencing it. The Parties agree that the commencement date, interim completion dates, and completion date are therefore subject to modification and that the Owner may provide to the City updated schedules which shall not constitute an amendment of this Agreement triggering the process for approval of amendments set forth in this Agreement.

(e) Failure to Meet Commencement of Completion Dates: The Owner's failure to meet the commencement date, an interim completion date, or the completion date shall not, in and of itself, constitute a material breach of this Agreement pursuant to section 6-31-90 of the South Carolina Code, but must be judged based on the totality of the circumstances and the flexibility anticipated under the Act and this Agreement.

13. Term of the Agreement. The term of this Agreement shall be five (5) years, commencing on the Effective Date. However, the Parties are not precluded from extending the term of this Agreement by mutual consent. The Parties agree to negotiate in good faith and utilize best efforts to extend this Agreement.

14. Amending or Canceling the Agreement. Subject to the provisions of section 6-31-100 of the South Carolina Code, this Agreement and the Amended Guidelines may be amended or canceled in whole or in part only by mutual written consent of the Parties or their successors in interest and, in the case of the Owner, its successors in legal title. Any amendment to this Agreement shall comply with the provisions of section 6-31-100. If an amendment to this Agreement or the Amended Guidelines affects less than all the persons and entities comprising the Owner, then only the City and those affected persons or entities who are Owners need to sign such written amendment for it to be effective. Pursuant to section 6-31-60(B) of the South Carolina Code, a major modification of this Agreement shall occur only after public notice and a public hearing by the City.

15. Modifying or Suspending the Agreement. Pursuant to section 6-31-130 of the South Carolina Code, in the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, the pertinent provisions of this Agreement shall be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

16. Periodic Review.

(a) Timing. Pursuant to sections 6-31-40 and 6-31-90(a) of the South Carolina Code, the City's zoning administrator or the zoning administrator's designee shall review the Development of the Real Property and this Agreement at least once every twelve (12) months, at which time the Owner or its successors in title and/or assigns shall demonstrate good faith compliance with the terms of this Agreement.

(b) Notice of Material Breach. If, as a result of a periodic review or at any other time, the City finds and determines that the Owner or its successors in title and/or assigns has committed a material breach of the terms or conditions of this Agreement, the City shall serve notice in writing upon the Owner or its successors in title and/or assigns setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Owner or its successors in title and/or assigns a reasonable time in which to cure the material breach.

(c) Failure to Cure. If the Owner or its successors in title and/or assigns fails to cure any material breach within the time given, then the City unilaterally may terminate or

modify this Agreement; provided that the City has first given the Owner or its successors in title and/or assigns the opportunity: (1) to rebut the City's finding and determination; or (2) to consent to amend this Agreement to meet the concerns of the City with respect to the finding and determination.

17. Severability. Subject to section 6-31-150 of the South Carolina Code, if any word, phrase, sentence, paragraph or provision of this Agreement shall be finally adjudicated to be invalid, void, or illegal, it shall be deleted and in no way affect, impair, or invalidate any other provision hereof.

18. Merger. This Agreement, coupled with its exhibits which are incorporated herein by reference, constitutes the final and complete expression of the Parties' intentions. In return for the respective rights, benefits, and burdens undertaken by the Parties, the Owner or its successors in title and/or assigns shall be, and is hereby, relieved of obligations imposed by future Land Development Regulations, except those which may be specifically provided for herein.

19. Cooperation. The Parties hereto agree to cooperate with each other to effectuate the provisions of this Agreement and to act reasonably and expeditiously in all performances required under the Agreement. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action.

20. Conflicts of Law. This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

21. Remedies. Each Party recognizes that the other Party would suffer inseparable harm from a material breach of this Agreement and that no adequate remedy at law exists to enforce this Agreement. Consequently, the Parties agree that any non-breaching Party who seeks enforcement of the Agreement is entitled to the remedies of injunction and specific performance but not to any other legal or equitable remedies including, but not limited to, damages; provided, however, the Owner shall not forfeit its right to just compensation for any violation by the City of Owner's rights. The City will look solely to the Owner as to any rights it may have against the Owner under this Agreement, and hereby waives any right to assert claims against limited partners or members of the Owner, and further agrees that no limited partner, member or agent of the Owner has any personal liability under this Agreement. Likewise, the Owner agrees to look solely to the City's assets as to any rights it may have against the City under this Agreement, and hereby waives any right to assert claims for personal liability against individuals acting on behalf of the City, its City Council members, agencies, boards, or commissions. Nothing in this Agreement shall be construed as requiring or authorizing the creation or incurrence of general obligation debt on the part of the City.

22. Recording. The Owner shall record this Agreement with the ROD within fourteen (14) days of the Effective Date; provided, however, the Owner's failure to record this Agreement within such time shall not affect the validity of this Agreement.

23. Third Parties. Notwithstanding any provision of this Agreement to the contrary, this Agreement shall not be binding and shall have no force or effect as to persons or entities who are not Parties or successors-in-title to Parties to this Agreement.

24. Successors and Assigns.

(a) Binding Effect. This Agreement shall be binding on the successors and assigns of the Owner in the ownership or Development of any portion of the Real Property. This Agreement shall also be binding on the City and all future City Councils for the term of this Agreement. A purchaser, lessee or other successor in interest of any portion of the Real Property shall be solely responsible for performance of the Owner's obligations hereunder as to the portion or portions of the Real Property so transferred. Assignees of some or all of the Real Property shall be required to execute a written acknowledgement accepting and agreeing to the Owner's obligations in this Agreement, said document to be in recordable form and provided to the City at the time of the recording of any deed transferring some or all of the Real Property. Following delivery of such documents, the Owner shall be released of any further liability or obligation with respect to such part of the Real Property conveyed. For purposes hereof, a lease with a term, including extensions, that exceeds a term of twenty (20) years, shall be subject to the provisions of this Paragraph.

(b) Indemnification. This Paragraph shall not be construed to prevent Owner from obtaining indemnification of liability to the City from third parties. Further, the Owner or its successors-in-title shall not be required to notify the City or obtain the City's consent with regard to the sale of Lots in single family residential subdivisions or Lots in commercial areas which have been platted and approved in accordance with the terms of this Agreement. Owner shall be released from obligations as to individual Lots in single-family subdivisions and individual building pad sites in commercial areas.

(c) Transfer of Real Property. Owner shall be entitled to transfer any portion or all of the Real Property to a purchaser or purchasers, subject to the following exceptions:

1) Notice of Property Transfer. If the Owner intends to transfer all or a portion of the Real Property to a purchaser who, by virtue of a contractual or other restriction is precluded of availing himself of any use of the Real Property allowed by the Current Regulations, Owner shall provide the City with thirty (30) days prior, written notice, with such notice to include a copy of the contractual or other restrictions.

2) Mortgage Lenders. Notwithstanding anything to the contrary contained in this Agreement, the exceptions to transfer contained in Paragraph 23(c)(1) shall not apply: (i) to any mortgage lender either as the result of foreclosure of any mortgage secured by any portion of the Real Property or any other transfer in lieu of foreclosure; (ii) to any third party purchaser at such a foreclosure; or (iii) to any third party purchaser of such mortgage lender's interest subsequent to the mortgage lender's acquiring ownership of any portion of the Real Property,

Furthermore, nothing contained herein shall prevent, hinder or delay any transfer or any portion of the Real Property to any such mortgage lender or subsequent purchaser. Except as set forth herein, any such mortgage lender or subsequent purchaser shall be bound by and shall receive the benefits from this Agreement as the successor in title to the Owner.

(d) Release of Owner. In the event of conveyance of all or a portion of the Real Property and compliance with the conditions set forth therein, the Owner shall be released from any further obligations with respect to this Agreement as to the portion of Real Property so transferred, and the transferee shall be substituted as the Owner under this Agreement as to the portion of the Real Property so transferred and the transferee shall be subject to this Agreement and its benefits and burdens.

(e) Estoppel Certificate.

i. Request. Upon request in writing from an assignee or the Owner to the City sent by certified or registered mail or publicly licensed message carrier, return receipt requested, the City will provide a certificate in recordable form that, solely with regard to the portion of the Real Property described in the request, there are no violations or breaches of this Agreement, except as otherwise described in the certificate.

ii. Response. The City will respond to such a request within thirty (30) days of the receipt of the request, and may employ such professional consultants, municipal, City and state agencies and staff as may be necessary to assure the truth and completeness of the statements in the certificate. The reasonable costs and disbursements of private consultants will be paid by the person making the request.

iii. Effect. The certificate issued by the City will be binding on the City in accordance with the facts and statements contained therein as of its date and may be relied upon by all persons having notice thereof. No claim or action to enforce compliance with this Agreement may be brought against the Owner or its assignees properly holding rights hereunder, alleging any violation of the terms and covenants affecting such portion of the Real Property except as otherwise described in the Certificate.

iv. Failure to Respond. If the City does not respond to such request within thirty (30) days of its receipt, the portion of the Real Property described in the request will be deemed in compliance with all of the covenants and terms of this Agreement, a certificate of such conclusion may be recorded by the Owner, including a copy of the request and the notice of receipt and it shall be binding on the City as of its date. Such notice shall have the same effect as a Certificate issued by the City under this Section.

25. General Terms and Conditions.

(a) Construction of Agreement. This Agreement should be construed so as to effectuate the public purpose in the settlement of disputes, while protecting the public health, safety and welfare, including but not limited to ensuring the adequacy of facilities and compatibility between the Real Property developed under this Agreement and other properties which are not.

(b) Mutual Releases. At the time of, and subject to (i) the expiration of any applicable appeal period with respect to the approval of this Agreement without any appeal having been filed, or (ii) the final determination of any court upholding this Agreement, whichever occurs later, and the Parties' respective rights and obligations under this Agreement, Owner, on behalf of itself and Owner's partners, officers, directors, employees, agents, attorneys, consultants, hereby releases the City and the City's council members, officials, employees, agents, attorneys and consultants, and the City, on behalf of itself and the City's council members, officials, employees, agents, attorneys and consultants, hereby releases Owner and Owner's partners, officers, directors, employees, agents, attorneys and consultants, from and against any and all claims, demands, liabilities, costs, expenses of whatever nature, whether known or unknown, and whether liquidated or contingent, arising on or before the date of this Agreement in connection with the Real Property or the application, processing or approval of the Agreement; provided, however, that each Party shall not be released from its continuing obligation to comply with this Agreement, including the Current Regulations.

(c) No Waiver. Failure of a Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the City Council taken with the same formality as the vote approving this Agreement, no officer, official or agent of the City has the power to amend, modify or alter this Agreement or waive any of its conditions as to bind the City by making any promise or representation contained herein. Any amendments are subject to Paragraph 14 of this Agreement.

(d) Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except as otherwise set forth in this Agreement.

(e) Attorneys' Fees. Should any Party hereto employ an attorney for the purpose of enforcing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief, or other litigation, including appeal or rehearings, the prevailing Party shall be entitled to receive from the other Party thereto reimbursement for all reasonable attorneys' fees and all costs and expenses. Should any judgment or final order be issued in that proceeding, said reimbursement shall be specified herein.

(f) Property Taxes and Fees. Nothing contained herein shall preclude the City from levying and collecting ad valorem property taxes or any fees that are imposed in like

manner upon other similarly situated properties within the City; provided, however, the City agrees that Owner shall not be subject to any impact fees in effect as of the date of this Agreement, and the City further agrees that any new impact fees adopted by the City during the term of this Agreement shall not apply to the Property.

(g) Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

City of Charleston
Attention: Mayor
Post Office Box 304
Charleston, South Carolina 29402

With copies to:

City of Charleston
Attention: Zoning Administrator
2 George Street
Charleston, South Carolina 29401

City of Charleston
Attention: Legal Department
50 Broad Street
Charleston, South Carolina 29402

Owner:

1776, LLC
36 Prioleau Street, Unit N
Charleston, South Carolina 29401

With copy to:

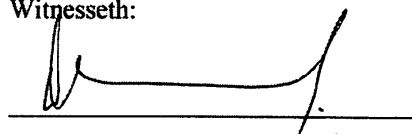
Hellman Yates & Tisdale, PA
Attention: Brian A. Hellman, Esq.
105 Broad Street, Third Floor
Charleston, SC 29401

(h) Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other Party within seven (7) days of receipt of said facsimile copy.

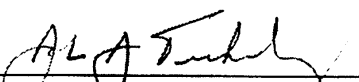
[Remainder of page left blank, intentionally. Signature pages to follow.]

IN WITNESS WHEREOF, this development agreement between the City of Charleston and 1776, LLC, has been executed by the City on the day and year first above written.

Witnesseth:



CITY OF CHARLESTON

By: 
John J. Tecklenburg, Mayor



STATE OF SOUTH CAROLINA

)

COUNTY OF CHARLESTON

)

ACKNOWLEDGEMENT

I, Daniel S. McQueeney, Jr., Notary of the Public of the State of South Carolina, do hereby certify that the City of Charleston, by John J. Tecklenburg, its Mayor, personally appeared before me this 27th day of November, 2019, and acknowledged the execution of the foregoing instrument.



Print Name: Daniel S. McQueeney, Jr.
Notary Public for South Carolina
My Commission Expires: 2/4/2021

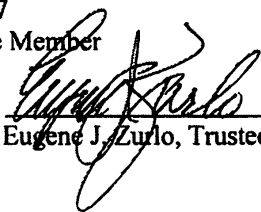
IN WITNESS WHEREOF, this development agreement between the City of Charleston and 1776, LLC, has been executed by 1776, LLC, a South Carolina limited liability company, on the day and year first above written.

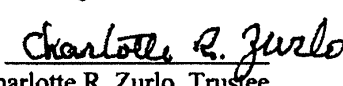
Witnesseth:

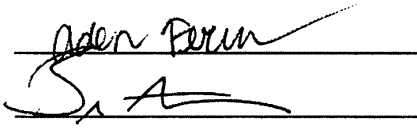
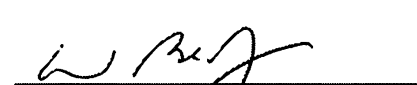
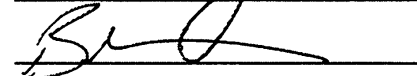
1776, LLC a South Carolina limited liability company

By: The Eugene J. Zurlo Living Trust dated December 11, 1997

Its: Sole Member

By: 
Eugene J. Zurlo, Trustee

By: 
Charlotte R. Zurlo, Trustee


[Remainder of 1776, LLC signature page left blank, intentionally.
Acknowledgments to follow].

STATE OF SOUTH CAROLINA

1

ACKNOWLEDGEMENT

COUNTY OF CHARLESTON

1

I, Brian A. DeLeon, Notary of the Public of the State of South Carolina, do hereby certify that Eugene J. Zurlo, Trustee of The Eugene J. Zurlo Living Trust dated December 11, 1997, Sole Member of 1776. LLC, a South Carolina limited liability company, personally appeared before me this 22nd day of November, 2019, and acknowledged the execution of the foregoing instrument on behalf of said limited liability company.

Notary Public for South Carolina

My Commission Expires: 5/20/27

STATE OF SOUTH CAROLINA

1

ACKNOWLEDGEMENT

COUNTY OF CHARLESTON

i

I, Brian A. Heuser, Notary of the Public of the State of South Carolina, do hereby certify that Charlotte R. Zurlo, Trustee of The Eugene J. Zurlo Living Trust dated December 11, 1997, Sole Member of 1776, LLC, a South Carolina limited liability company, personally appeared before me this 27th day of November, 2019, and acknowledged the execution of the foregoing instrument on behalf of said limited liability company.

Notary Public for South Carolina

My Commission Expires: 5/20/24

EXHIBIT A

[ORDINANCE NO. 2016-005 (PUD GUIDELINES)]



Refutation
Number 2016-005

AN ORDINANCE

TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT PROPERTY LOCATED ON RIVER ROAD AT MAYBANK HIGHWAY (JOHNS ISLAND) (58.88 ACRES) (TMS #346-00-00-004, 008, 076, 258, 259, 260 & 301) (COUNCIL DISTRICT 5), BE REZONED FROM DIVERSE RESIDENTIAL (DR-9), GENERAL BUSINESS (GB) AND GENERAL OFFICE (GO) CLASSIFICATIONS TO PLANNED UNIT DEVELOPMENT (PUD) CLASSIFICATION.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That the Zoning Ordinance of the City of Charleston be, and the same hereby is amended, by changing the zone map thereof so as to rezone the property described in Section 2 hereof by changing the zoning designation from Diverse Residential (DR-9), General Business (GB) and General Office (GO) classifications to Planned Unit Development (PUD) classification.

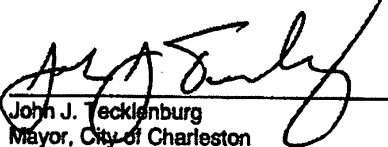
Section 2. The property to be rezoned is described as follows:

Property located on River Road at Maybank Highway (Johns Island) (58.88 acres) (TMS #346-00-00-004, 008, 076, 258, 259, 260 & 301)

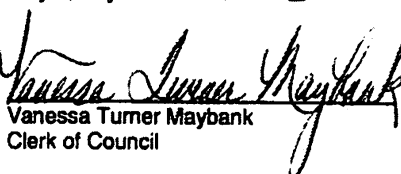
Section 3. This ordinance shall become effective upon ratification.

Ratified in City Council this 12th day of January in the Year of Our Lord 2016, in the 240th Year of Independence of the United States of America.

By:


John J. Tecklenburg
Mayor, City of Charleston

Attest:


Vanessa Turner Maybank
Clerk of Council

City of Charleston

Planning Commission
November 18, 2015

Rezoning 4

River Rd at Maybank Hwy (Johns Island)

TMS# 3460000004, 008, 076, 258, 259, 260 & 301

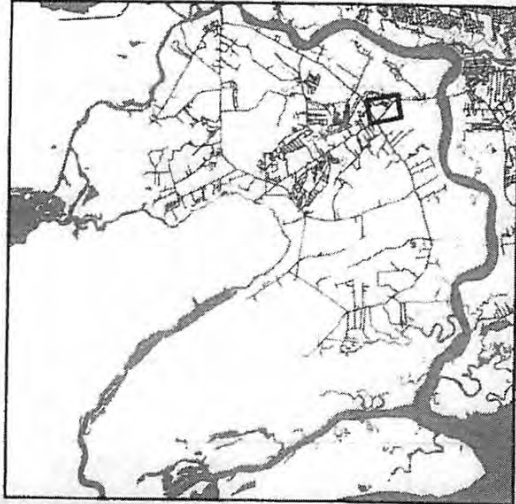
58.88 ac.

Request rezoning from Diverse Residential (DR-9),
General Business (GB) and General Office (GO)
to Planned Unit Development (PUD).

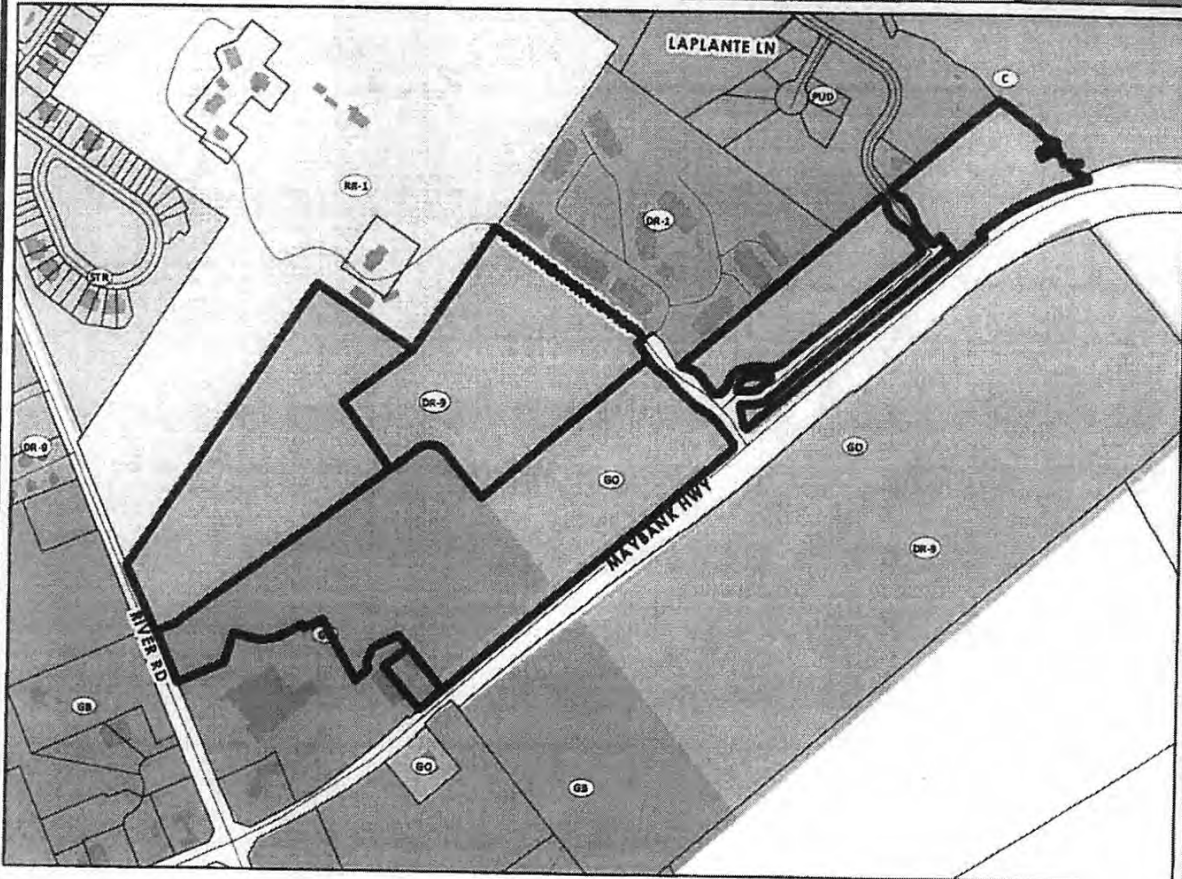
Owner: Multiple Owners

Applicant: Seamon, Whiteside & Assoc. Inc

Area



Location



Department of Planning, Preservation & Sustainability
www.charleston-sc.gov

2 George St, Charleston, SC 29401

843.724.3765



*Planned Development Guidelines
Village at Fenwick
December 7, 2015*

PLANNED UNIT DEVELOPMENT GUIDELINES

The Village at Fenwick

Charleston, South Carolina

ID# 150928-RiverRd-1

December 7, 2015



Applicant:

Mitch Laplante

Owners:

Penny Creek Associates, LLC

Fenwick Allee, LLC

2754 Maybank, LLC

Prepared By:

Seamon, Whiteside & Associates, Inc.

501 Wando Park Boulevard, Suite 200

Mt. Pleasant, SC 29464

(843) 884-1667

SW+ Project No. 6518

Planned Development Guidelines
Village at Fenwick
December 7, 2015

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*Planned Development Guidelines
Village at Fenwick
December 7, 2015*

**PLANNED UNIT DEVELOPMENT
MASTER PLAN REQUIREMENTS
CITY OF CHARLESTON**

RELATIONSHIP TO THE CITY OF CHARLESTON ZONING ORDINANCE

The Development Guidelines and Land Use Plan for the Village at Fenwick Planned Unit Development (PUD), attached hereto and made a part hereof, are part of the PUD conditional use Master Plan application submitted in accordance with the Zoning Ordinance of the City of Charleston, Article 2, Part 7 Sections 54-250, et seq. The Zoning Ordinance of the City of Charleston is incorporated herein by reference, except as amended herein.

No person shall erect or alter any building, structure, or sign on any tract of land or use any tract of land within the Village at Fenwick PUD except in conformance with these guidelines and regulations. Unless modified herein, definitions of terms used in the Village at Fenwick PUD Development Guidelines shall follow definitions listed in the Zoning Ordinance of the City of Charleston, as amended from time to time. Administration and enforcement of the adopted Village at Fenwick PUD Master Plan shall follow Article 9 of the Zoning Ordinance of the City of Charleston.

The Village at Fenwick PUD Master Plan was approved by the City of Charleston on _____, Ordinance Number _____.

*Planned Development Guidelines
Village at Fenwick
December 7, 2015*

I. Statement of Purpose, Intent, Objectives

This Planned Unit Development is intended to meet the criteria listed in Section 54-254 in the City of Charleston zoning code. The PUD allows flexibility in neighborhood design to create an urban node for Johns Island while providing open space, protecting the site's grand trees, and being sensitive to the context of Johns Island. This document is consistent with the City's adopted comprehensive plan, the Century V Plan, the Johns Island Community Plan, and the Johns Island Community Greenway Plan.

By creating additional open space including a linear park, that runs parallel to Maybank Highway, a leisure trail system, a dog park, and a Farmer's Market site, this development better achieves the goals of adopted plans or other zoning district regulations. A linear park alongside the conservation buffer area on Maybank Highway will incorporate a leisure trail, seating, ornamental plantings, and a historical design feature that will illustrate the history of Johns Island. A small dog park will be provided as an open space element, allowing people an area to relax outdoors with their pets. A leisure trail system will wind through the entire development, creating an emphasis on pedestrian connectivity, and downplaying the role of the automobile. This trail system will link into a proposed Farmers Market open air building that will be for public use, and allow local farmers to sell their produce to the Johns Island community.

This development is also consistent with the City's adopted master road plan. By committing to design the development around existing grand trees, allowing pervious road types, generating ample open space, and respecting the adjacent Fenwick Hall through buffering and architectural regulations, this PUD will protect and preserve natural and cultural resources better than standard zoning district regulations. The planned development aims to celebrate the natural characteristic of the Johns Island gateway while transitioning to the future "Four Corners" intersection at Maybank Highway and River Road.

Further, this planned development has been coded for compatibility with density and building height restrictions according to the City's vision for the location, as set forth by the Comprehensive Plan and Century V Plan. The planned development will be congruent with the density and maximum building height of the adjacent multistory apartments. To encourage a variety of roof lines through the PUD development, building heights shall be defined as number of stories. It is also compatible with the existing network of public streets and the proposed Pitchfork Road that is planned to go through the property. Additionally, this development is accommodated by existing and planned public facilities including roads, sewer, water, schools, parks, open space and recreational amenities. Coordination letters are included within this document. Finally, the POA will adequately provide for the continued maintenance of common areas, open space, and other public facilities not dedicated to the City of Charleston.

Upon City approval, these Planned Unit Development Guidelines shall apply to the entire 58.88 acres of this tract. Any zoning details not outlined in these guidelines will adhere to the current City of Charleston zoning guidelines and will default to the GB or DR-9 land use regulations, based on the parcels' zoning prior to this PUD. A Conceptual Land Use Plan and Conceptual Open Space Plan have been included within the appendices of this report.

This PUD is a zoning document only and does not include a Concept Plan component. Drainage, Utility and Fire Protection Plans meeting the City's requirements shall be provided with the future required Concept Plan submittal.

The Village at Fenwick PUD property includes a vehicular spur of the Pitchfork Traffic Plan set forth by the City of Charleston, with the goal of dispersing traffic, while creating walkable streets with on-street parking, to ultimately create a gathering place for Johns Island.

The vision of the Pitchfork Traffic Plan is to create a Johns Island inspired village center that is respectful of the grand live oaks and surrounding natural character of Johns Island. The goal of this PUD is to provide flexible zoning regulations in order to create a dense, walkable mixed-use gathering place along Maybank Highway and the Pitchfork spur that is sensitive to its surrounding landscape and history.

**Planned Development Guidelines
Village at Fenwick
December 7, 2015**

II. City Land Use & Zoning Designations

A. Century V Plan Recommendations:

According to the City of Charleston's Century V Plan, this site's recommended future Land Use designations are Urban, Neighborhood Center, Conservation, and Suburban.

<u>Future Land Use</u>	<u>Acreage</u>	<u>Allowable Density*</u>	<u>Allowable Units</u>
Urban	9.52 AC upland	12 DU/AC	114
Neighborhood Center	35.51 AC upland	20 DU/AC	710
Conserved/Natural Area*	3.31 AC upland 6.23 AC wetland	0 DU/AC	0
Suburban	4.31 AC upland	8 DU/AC	34
TOTAL	52.65 AC upland 6.23 AC wetland	16.29 DU/AC	858

* Density calculated using upland acreage.

B. Current Base Zoning and Site Tabulation:

The Village at Fenwick PUD property, totaling 58.88 acres, is comprised of TMS numbered 346-00-00-004, TMS 346-00-00-076, TMS 346-00-00-260, 346-00-00-008, a portion of 346-00-00-258, a portion of 346-00-00-259, and TMS 346-00-00-301 as found on the tax maps included in the appendices of this report. The properties are zoned GB, GO, C, and DR-9 in the City of Charleston. The Village at Fenwick PUD property is surrounded by a mix of properties with zoning designations of RR-1, DR-1, GB, PUD and GO.

Existing TMS Acreage Chart:

<u>TMS #</u>	<u>Existing ACREAGE</u>	<u>Existing Zoning(s)</u>
346-00-00-004	12.64 AC	DR-9
346-00-00-076	22.93 AC	GB, GO, C
346-00-00-260	12.25 AC	DR-9
346-00-00-258*	4.82 AC	GO
346-00-00-259*	4.38 AC	GO, C
346-00-00-008	0.55 AC	GB
346-00-00-301	1.31 AC	C
TOTAL	58.88 AC	

* Portion of total parcel acreage

DR-9 - Diverse Residential; GB - General Business; GO - General Office; C - Conservation

*Planned Development Guidelines
Village at Fenwick
December 7, 2015*

Existing Zoning Chart:

<u>Ex. Zoning</u>	<u>Total Acreage</u>	<u>Density</u>	<u>Dwelling Units</u>
DR-9	24.89 AC	9.0 units/AC	224 units
GB	14.61 AC	26.4 units/AC	385 units
GO	16.19 AC	--	--
C	3.19 AC	--	--
TOTAL	58.88 AC		609 units

III. PUD Land Uses and Development Regulations

A. Land Uses

The proposed development will contain residential, commercial, civic and open space land uses in a horizontal or vertical mixed use format. The PUD will categorize the intensity of development into two designations; Village at Fenwick Mixed Use Residential (VFMR) and Village at Fenwick Mixed Use Commercial (VFMC). In order to preserve the Maybank Highway natural corridor, the PUD will also consider Conservation (C) as part of the development regulation.

1. Site Tabulation:

<u>LAND USE</u>	<u>TOTAL</u>	<u>Projected WETLAND</u>	<u>Projected HIGH</u>	<u>Existing Pond</u>	<u>Maximum D.U.*</u>	<u>Maximum NET DENSITY</u>
VFMR**	27.30 Ac.	1.11 Ac.	26.19 Ac.		216	9.00 D.U./Upland Ac.
VFMC**	27.51 Ac.	5.12 Ac.	22.39 Ac.	0.55 Ac.	393	17.55 D.U./Upland Ac.
C**	4.07 Ac.	0.00 Ac.	4.07 Ac.		N/A	N/A
TOTAL	58.88 Ac.	6.23 Ac.	52.65 Ac.	0.55 Ac.	609	11.57 D.U./Upland Ac.

*Accessory dwelling units shall not count toward allowable density limit (see III, A, 2 for definition)

**See VII for Open Space Requirements

2. Village at Fenwick Mixed Use Residential (VFMR) designated area(s) will allow primarily residential and limited commercial and mixed use. The following uses shall be permitted:

1. Single-family detached dwelling (SFD)
2. Two-family dwellings
3. Single-family attached dwellings
4. Nursing homes
5. Accessory Dwelling Units (ADU). Accessory Dwelling Unit shall be defined as for a secondary house or apartment with its own kitchen, living area and separate entrance that shares the building lot of a larger, primary house. The ADU may be attached to an existing

Planned Development Guidelines
Village at Fenwick
December 7, 2015

- house or garage, or it may be built as a stand-alone unit, but it usually uses the water and energy connections of the primary house and may be rented separately.
6. Detached accessory buildings for Office Space for Home Occupations
 7. Live Work Units
 8. Neighborhood commercial as defined in the City of Charleston CT zoning designation, except that commercial hours of operation shall be limited to 7 a.m. to 8 p.m.
 9. Gazebos, shelters, play equipment, and other site furnishings shall be allowed in open spaces falling outside of wetlands and buffer areas.
 10. Model homes, sales centers, and associated uses shall be allowed in all areas.
 11. An open air farmers market building
 12. Parks, trails, open space, etc.

3. **Village at Fenwick Mixed Use Commercial (VFMC)** designated area(s) will allow moderate intensity mixed use, residential, and commercial. The following uses shall be permitted:
 1. Uses permitted in the GB district, except that commercial hours of operation shall be limited to 7 a.m. to 12 a.m.
 2. Hotel, Motel, or Bed and Breakfast
 3. Multi-family / Apartment
 4. Uses permitted in the VFMR

Note: VFMC areas will be under purview of the Design Review Board (DRB).

B. Development Regulations

All lots must conform to dimensional, density, and zoning requirements as found in the following chart:

	VFMR	VFMC
Min. Front Yd. Setback (ft.)*	5	0
Min. Side Yard Setback (ft.) from Property**	5	5
Min. Rear Yard Setback (ft.) from Property***	10	0
Min. Street Side Yard Setback (ft.) from Property Line	10	10
Build to Zone at Right of Ways *	5' - 15'	0'-10'
Accessory Building front setback toward rear from primary façade	10'	10'
Accessory Building side and rear setback	3'	3'
Maximum Ht.	3 stories	4 stories
Building Coverage (Max. %)		

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Commercial & MF	100%	100%
Single Family Attached	80%	85%
Single Family Detached	90%	95%
Minimum Lot Area (square feet)		
Commercial	None	None
Single Family Attached	2500	None
Single Family Detached	1280	None
Minimum Building Frontage along Right of Ways	None	65%

* Setbacks and build-to lines shall be measured from the Right of Way line or innermost easement line. Flexibility for trees may be granted.

**Unless common wall construction

***Modified setbacks apply to properties adjacent to Fenwick. See Buffers in Section 4.

1. Development standards for *Village at Fenwick Mixed-Use Residential (VFMR)*

- a) Architectural design must address and respond to the architectural elements present in Fenwick and must address the Fenwick side entry drive. This shall be enforced by the Architectural Review Board (ARB).
- b) A maximum of 50 accessory dwelling units (ADUs) shall be allowed, with the number per lot not to exceed 1 ADU. ADUs shall not count toward the allowable density calculation. ADUs shall be limited to 800 s.f of habitable area, excluding garage space. See section III, A, 2 for ADU definition. ADU approval and monitoring shall be the responsibility of the future Village at Fenwick DRB.
- c) Compact lots will be encouraged.
- d) The minimum lot frontage for lots with vehicular access to an alley may be 15'. This will allow flexibility for unique lot configurations to work around existing trees and common spaces.
- e) The maximum block size will be 800' x 800'. Blocks size shall be defined as the distance between Right of Ways, primary vehicular drives with angled or parallel parking, and / or Pedestrian Access Easements with leisure trails. Perimeter lots (lots with property lines on the PUD boundary) will be excluded from this requirement.
- f) Only 25% of the total lots on each street may have front loaded attached garages.

2. Development standards for *Village at Fenwick Mixed-Use Commercial (VFMC)*

- a) Drive-thru lanes shall be permitted but should be oriented away from the nearest existing ROW.
- b) There shall be no lot size requirements.
- c) Corner lots shall meet City of Charleston vision clearance triangle requirements.
- d) Steps, open stairways, open porches, eaves, roof awnings and decks may extend up to 5' into street front setback, but in no instance can they extend into the right of way.

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- e) Individual commercial building footprints shall be limited to 30,000 square ft. max. footprint area.
- f) Block Size shall be a maximum of 600' x 600'. Blocks size shall be defined as the distance between Right of Ways, primary vehicular drives with angled or parallel parking, and / or Pedestrian Access Easements with leisure trails.
- g) Building Frontage shall be defined as the width of a building along a street, including parallel walls or fences, but excluding roof overhang and canopies, and any ornamental features that cause a protrusion from the walls of the building. Building frontage shall be measured as the combined width of the building faces that front the street and lie within setback limits or build to zones. When the width of the building varies vertically, building frontage shall be measured at ground level.
- h) Build-to Zone shall be defined as an area of a lot designated for placement of a building façade along a street, located parallel to a front property line. The Build-to Zone defines an area in which the locations of building fronts can vary within a specified range. Grand Tree Drip Zones and formal Open Spaces may be excluded from frontage calculations.

3. *Off-Street Parking*

- a) The proposed development shall refer to the Peninsula parking requirements outlined in the City of Charleston zoning ordinance and will be held to the "on peninsula" parking quantities.
- b) Platted private drives may be unpaved and include a minimum 20' long paved apron at street connections and paved areas to meet ADA compliance. Unpaved drives must be reviewed and approved by City of Charleston Staff.
- c) For any single-family and private properties, all driveways may be unpaved.
- d) Two way parking drive isles may be 22' and parking space dimensions may be 9'x18'. If no vehicle overhang is provided, parking spaces shall be the standard 9'x18.5'.
- e) Multi-level Parking Garages shall not be allowed.
- f) Parking areas and private drive isles may be paved, gravel, sand shell or of another pervious material.
- g) There shall be no parking between building fronts and Right of Ways in the VFMC areas.

See Appendix H for the City of Charleston Lower Peninsula Parking Standards.

4. *Buffers*

- a) Interior buffers between internal uses shall not be required.
- b) Wetland buffers may be required by the Army Corps of Engineers or SCDHEC Coastal Zone Consistency and shall be provided per their requirements.
- c) Wetland buffers will be outside of platted lots and will be owned and maintained by the Property Owner's Association (POA).
- d) Wetland buffers shall be per U.S. Army Corps of Engineers or SCDHEC Coastal Zone Consistency requirements. These buffer requirements supersede any City of Charleston requirements. Paved or non-paved walking trails, 5' wide or less will be allowed within the wetland buffers subject to U.S. Army Corps of Engineers' or SCDHEC Coastal Zone Consistency approval. If paths are not permitted by U.S. Army Corps of Engineers, Open Space may be required elsewhere such that the minimum requirement is met.
- e) A required, Type F, 50' buffer will be provided along Maybank Highway and will be maintained by the POA. This buffer will maintain required plant materials or may remain undisturbed. The proposed Linear Park will be located adjacent and run parallel to the Maybank Highway buffer.

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- f) Buffers and modified setbacks will be required along the Fenwick Allee and Rear property line. See Appendixes for buffer exhibits. Buffers will be within POA easements and will be maintained by the POA. Within the buffers, supplemental plantings may be allowed, otherwise buffers are to be left undisturbed. A masonry wall will be allowed in the buffer along with opportunities for plant screening.
- g) Supplementary to the Fenwick buffers, houses will be required to be subtle neutral tones, to minimize visual impact to the plantation. Color swatches shall be submitted for review and approval to the future Village at Fenwick ARB.
- h) Buffers are shown on the Open Space Plan and in the appendices of this document. With the exception of wetland buffers, no other buffers other than those indicated on the open space plan and described here within shall be required.

IV. Surveys

Plats and a Preliminary Wetland Survey have been included in the appendixes of this document. Tree surveys and wetland surveys will be required prior to any future Concept Plan or Preliminary Plat submittal.

V. Traffic Study

A traffic study has been previously completed for Pitchfork Road improvements and can be found on file with the City of Charleston. An executive Summary has been included in the appendix K of this document.

VI. Streets, Sidewalks, and Trails

- A. Streets within the Village at Fenwick PUD shall allow Neighborhood District street classifications and right of way design standards (Sections 54-820, - 821[a,d,h,l,m,n,u,p,q,r,s,t,u], -822-823 of the City of Charleston Zoning Ordinance) as well as the new street sections found in Appendix G. Also, the developer may present modified versions of these street sections to be reviewed and approved through the TRC and Concept Plan process.
- B. Unpaved private streets, such as gravel, sand shell, or plantation mix shall be allowed if approved by City of Charleston Staff. Should an unpaved private road be desired, a street section shall be submitted to the City of Charleston Staff for review and approval. A parallel sidewalk or trail along unpaved streets may be allowed to satisfy ADA accessibility.
- C. Streets, public or private, may be studied with digitally simulated emergency and service vehicle modeling to ensure proper service and access. Exhibits shall be provided to city of Charleston as requested by City Staff.
- D. Sidewalks, parks, playgrounds, trails, pier/docks, pedestrian bridges, bicycle paths and any non-paved streets or roads that don't have sidewalks shall be ADA Compliant or maintain a proper ADA route throughout the development.
- E. Should public streets be used they will be paved and designed per City of Charleston standards and maintained by the City of Charleston if accepted. However, curb may be omitted to allow for bio-swales and other low impact development practices, pending review and acceptance by the City of Charleston staff.
- F. No new driveway or street connection to Maybank Highway shall be permitted from the planned development except for the planned 'Pitchfork Road', subject to the approval of the City of Charleston. No new street or driveway connections from the planned development to River Road shall be permitted except for the planned 'Pitchfork Road' connection. The existing vehicular connection from TMS 346-00-00-008 to Maybank Highway may remain. Approval of this PUD shall remove and replace the language found in restrictive covenant #4 pertaining to parcel 346-00-00-076 found in (Bk Y166, Pg 522; Bk V142, Pg 434) with the language found in this paragraph. See Appendix E for Restrictive Covenants. Vehicular connections to the Village at Fenwick shall be provided along the new Pitchfork Road.

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- G. Due to significant tree resources, and an anticipated light imprint approach, cul-de-sac and hammerhead turn-arounds shall be allowed.
- H. Gated streets shall not be permitted.
- I. Pervious pavers, if approved by the City of Charleston Public Services Department, may be utilized in Public or Private Right-of-Ways (ROWs) where streets or sidewalks encroach into grand tree drip zones. Non-standard materials will require DRC approval.
- J. Temporary Right of Way cul-de-sac and / or temporary private cul-de-sacs shall be a minimum of 96' diameter measured at the ROW or easement line.
- K. The neighborhood will provide a continuous connected leisure trail system linking units and common space areas. Leisure trails shall be a minimum of 5' in width (see open space section), composed of concrete asphalt, pavers, or pervious material, and must meet ADA requirements. The leisure trail will connect all useable park spaces. The Open Space plan layout of the leisure trail is highly conceptual and will be subject to modification due to final site layouts. Leisure trails will be allowed to replace required sidewalks, such that pedestrian connectivity and ADA accessibility is maintained throughout the design. All walks outside of the ROW will be maintained by the POA. The requirement for trail and / or sidewalk shall not be dependent on Street Type.
- L. The minimum sight triangle for stop conditions at street intersections shall follow SCDOT ARMS manual standards.
- M. Lights shall not be required on private streets to minimize environmental impacts.
- N. Staff may approve reducing or eliminating Sidewalks within ROWs due to grand or significant tree conflicts, such that a proper ADA route is maintained.

VII. Drainage

- A. All drainage design should be in accordance to the City of Charleston Stormwater Design Standard Manual except that swales may be utilized on private drives and may vary from the Stormwater Manual regulations in order to accommodate light imprint practices. Swales will be maintained by the POA. Any proposed deviations from the Stormwater Design Manual will be coordinated through and require approval by City Staff.
- B. Streets within private ROWs and parking and drainage systems within private commercial areas shall be maintained by the POA. The city of Charleston shall maintain storm drainage systems that convey runoff from Public Land or Public Rights of Way.
- C. The site drainage system must meet all applicable State, and Federal storm water regulations. The proposed public roadway construction must comply with the requirements of the City's Zoning Ordinance Section 54-821, Table 8.1 or Table 8-2.1 (Neighborhood District), or be per the roadway standards or sections included within or referenced by this document.

VIII. Signs

- A. One master sign may occur on Maybank Highway immediately west of Fenwick Hall Allee and be subject to permitting. One master sign may occur at the connection to River Road and be subject to permitting. Master sign heights shall be limited to no more than 10' in height above proposed grades and no more than 40 square feet of sign face per side. No backlit signs are allowed along Maybank Highway and River Road. The master entrance subdivision signs will be designed according to Article 4 of the City of Charleston zoning ordinance and may occur within buffers.
- B. A single secondary entrance sign per tract may be constructed at connection points to the Pitchfork Road or adjacent properties. Secondary entrance signs will be a maximum of 5' high with a maximum of 20s.f. of sign face per side.
- C. All signs and associated landscaping will be maintained by the POA. All master signage will be submitted for site plan and encroachment permit review. All other signs will be in accordance with the City of Charleston standards.
- D. There will be directional and traffic signage located throughout the development.

*Planned Development Guidelines
Village at Fenwick
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IX. Amenity Areas and Open Space

A. Required Open Space Chart:

	<u>OVERALL OPEN SPACE* (20% of Site)</u>	<u>USEABLE OPEN SPACE* (25% of Overall Open Space)</u>
Minimum	11.78 Min.	2.95 Ac.
Projected	17.13 Ac	5.01 Ac.

B. Open Space Definitions and Requirements:

1. Open space is calculated as 20% of the gross acreage. The proposed Open Space Plan meets or exceeds the required open space.
2. Usable open space is calculated as 25% of the required open space. The proposed Open Space Plan meets or exceeds the required usable open space.
3. Useable open space improvements must be shown on Construction Documents and installed prior to final plat, with the exception of the Farmer's Market. Designs for the Farmers Market shall be included with preliminary plat submittal for the first phase of VFMC, and the Farmers Market shall be constructed prior to the C/O for the first building in VFMC.
4. The size and location of open space and useable open space shown within the Open Space Plan included in this document are subject to adjustment; however, these spaces will remain in excess of the required minimums.
5. Open space definitions are as follows:

Open Space. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space shall not include streets, drives, off-street parking and loading areas, area so located or of such size or shape to have no substantial aesthetic or recreational value and any area within residential lots.

Useable Open Space. Open space areas of high ground developed to provide for active recreational uses. Examples of possible types of usable open spaces could include paths, play fields, benches, walking trails, picnic areas and ponds with seating areas.
6. A connected system of open space leisure trails, a farmers market, dog park, playfields or community gardens, and a linear park along Maybank Highway will be provided as useable open space. All trails, walkways and paths shall be ADA Compliant.
 - a) **Farmers Market:** The farmers market will count towards useable open space requirements and will include an open air pavilion to be utilized as a programmed space for sales of local produce from local farmers to the public. Parking for the farmers market shall occur with the on-street parking spaces on Pitchfork Road, and

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may occur within the private parking lots within the VFMC area. The farmer's market space shall act as a passive playfield within VFMR until construction begins. The Farmer's Market will be owned and maintained by the POA but will be open to the public for events.

- b) **Linear Park:** The linear park will be located parallel to the Maybank Highway buffer, will count towards the useable open space requirement, and will include a 7' min leisure trail, benches or other seating opportunities, art, or an educational element that illustrates the history of Johns Island and Fenwick. The linear park may also include a wall, wooden decorative fence, or water feature. The Linear park will be owned and maintained by the POA but, will be open to the public.
- c) **Leisure Trails:** Leisure trails will be allowed to wind through buffers, between lots, or along ROWs to connect the site through a pedestrian network. The leisure trails will be a minimum of 5' wide, located within open space easements that are maintained by the POA, and easement areas may count toward the useable open space requirements. Leisure trail areas may include benches, swings, or seating areas. This network is conceptually shown on the open space plan in the appendices of this document, though actual routing is subject to final neighborhood design.
- d) **Dog Park:** A minimum 3,000 square foot fenced dog park will be included in the open space. The dog park will be accessible to all residents and will be owned and maintained by the POA. The Dog Park will be linked to the leisure trail system.
- e) **Community Garden or Play Fields:** A 1.37 acre community garden, playfield, or combination thereof will be improved below the SCE&G power line easement adjacent to the linear park. The open space area will include leisure trails that link to the overall trail system. The design of this area will be subject to SCEG approvals.

See Appendix D for Conceptual Open Space Plan.

X. Tree Summary

A. Existing Trees

1. The site is currently heavily wooded with a high concentration of grand live oaks. The vision of this project is to create a highly sensitive site plan effort that creates a meaningful gathering place and urban node that is respectful to the grand trees and natural surroundings.
2. A licensed independent arborist will be consulted to inspect the conditions and grade rating of existing grand trees. Every effort will be made to preserve A and B rated grand trees while other quality significant trees will be carefully evaluated and considered, while balancing the goal of creating a node for Johns Island.
3. Existing grand trees and their drip zones near the alley of oaks leading to Fenwick Hall and the Fenwick Hall property shall have proper and specific attention through construction and future planning as to avoid disrupting the natural aesthetic of the site.
4. Tree surveys will be provided prior to concept plan submittal.
5. All grand and protected trees shall be govern by Part 6 of the City of Charleston's Tree Protection Ordinance. Should the removal of a grand tree be deemed necessary, the Board of Zoning Appeals process shall be utilized.

B. Street Trees

1. Canopy Street trees will be required in the Public or Private right of way. Street trees will not count towards tree mitigation for tree variances. A Street Tree Plan will be required to be submitted for review and approval by the City Parks Department.

***Planned Development Guidelines
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2. Existing significant or grand trees with that fall within 12' of a proposed right of way shall count towards the street tree requirement, subject to Parks Department approval.
3. Due to the high amount of anticipated significant and grand trees, city staff shall have the right to grant flexibility on size, species, spacing and location of required street trees in order to minimize the impact to existing trees.
4. Native tree species are encouraged to preserve the existing natural characteristic throughout the site.

XI. Additional Development Criteria

Sales and/or construction trailers and associated parking areas are allowed on POA areas or designated lots prior to the recording of plats. Site plan review and issuance of clearing and grading permits are required prior to the issuance of the required building permit.

In all cases where sidewalks, tree plantings, or mitigation plantings are required prior to the approval of a final plat for the property, sidewalks and tree mitigation shall be installed, inspected and deemed acceptable by the City. Sidewalks and tree plantings shall be contingent upon approval of encroachment permit and construction plans by the City. These items will be submitted for review to Public Services, Engineering and Parks and Recreation Departments.

Water will be served by Saint Johns Water Company

Sewer will be served by Charleston Water Systems for this project.

Gas will be served by SCE&G.

XII. Subdivision

Commercial and single family lots will be subdivided through subsequent plat submittals. The commercial parcel may be subdivided into multiple lots, provided that the subdivision meets the development criteria set forth in the standards of this PUD. The Village at Fenwick PUD will be a multi-phased development. A phasing plan will be submitted with the Concept Plan submittal and included / adjusted as necessary with subsequent Preliminary Plat submittals. Subdivision may occur off of platted private drives or pedestrian access easements, such that acceptable emergency access is provided.

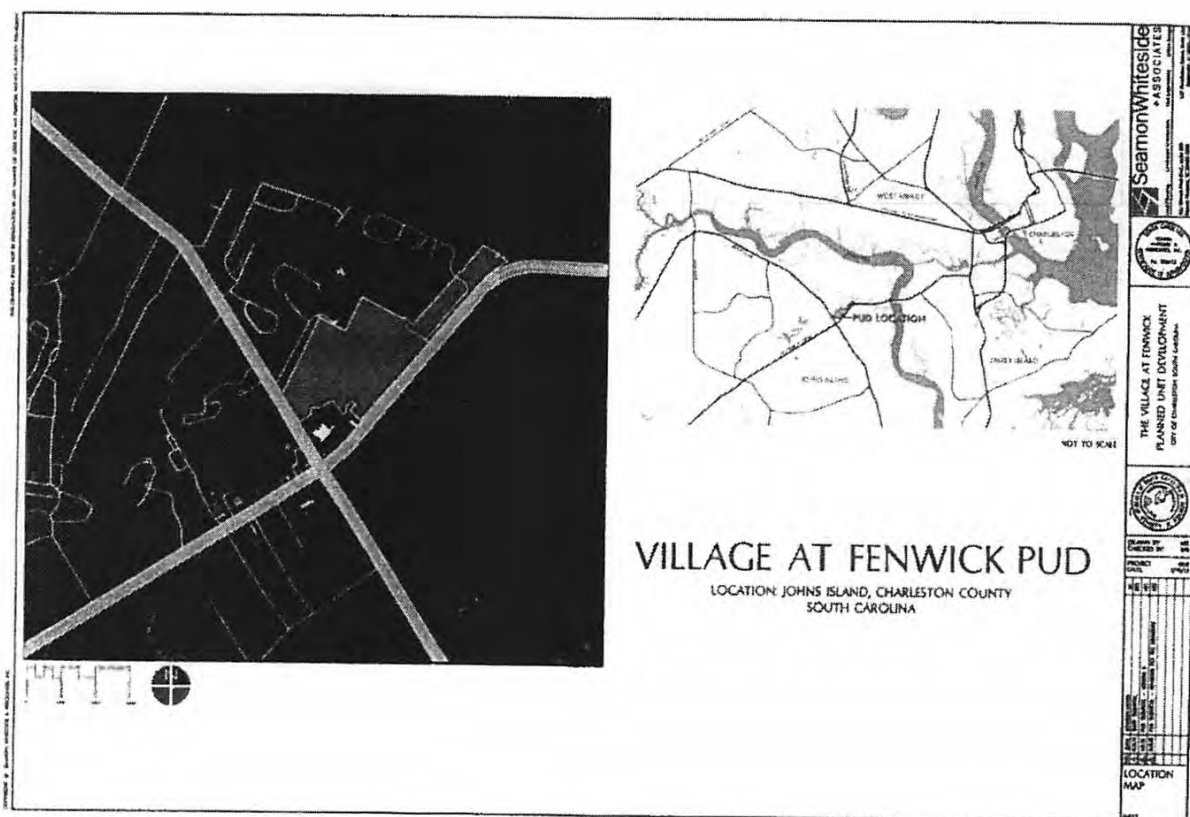
XIII. Cultural Resources

A cultural resources study for the property was completed in 2001. A copy of the full cultural resources report is on-file with the City of Charleston. A summary of the report can be found within the appendices of this document.

XIV. Appendices

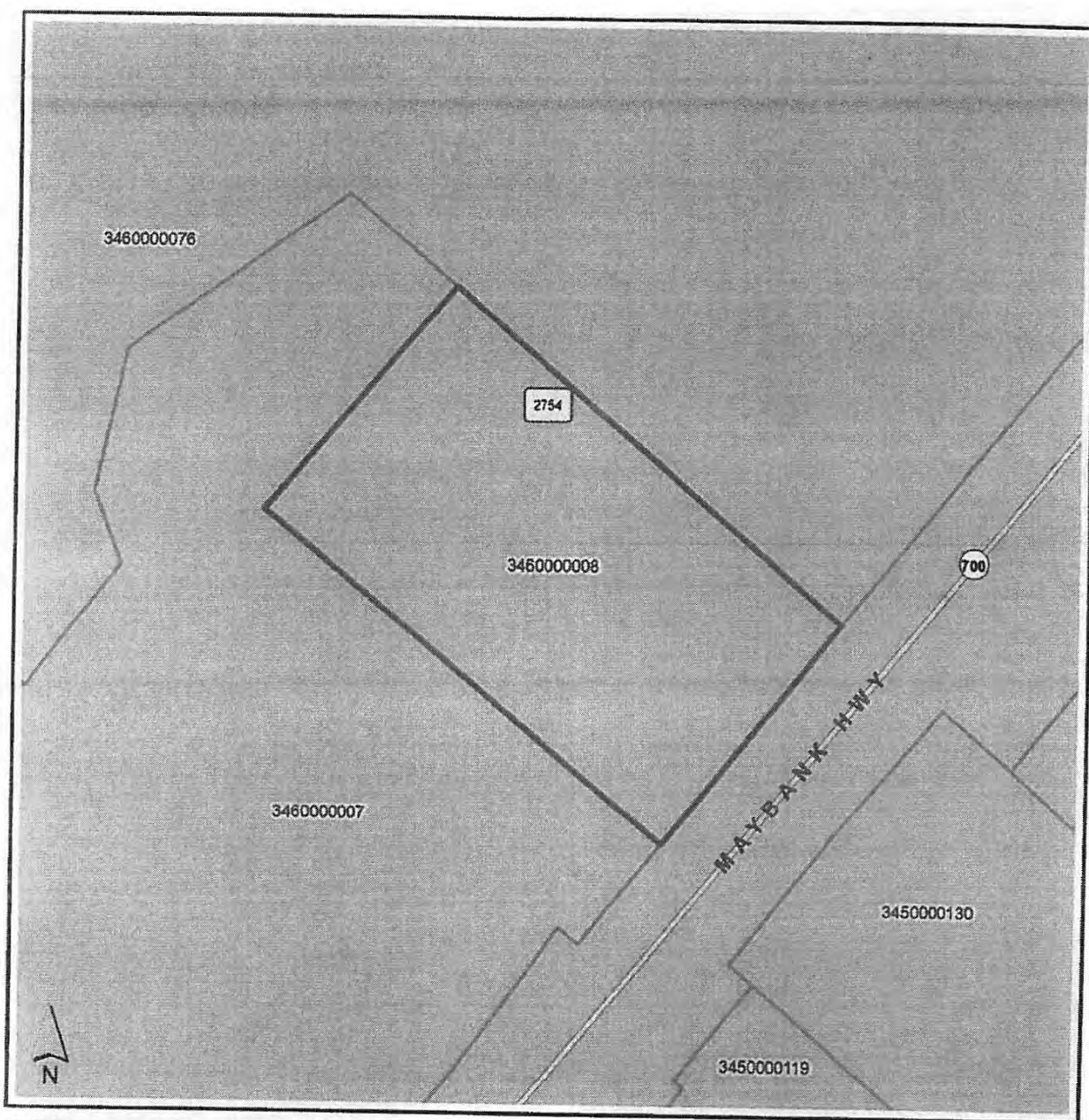
*Planned Development Guidelines
Village at Fenwick
December 7, 2015*

APPENDIX A



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Village at Fenwick
December 7, 2015***

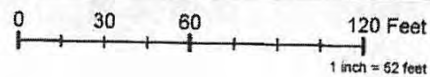
APPENDIX B



Village at Fenwick Plantation

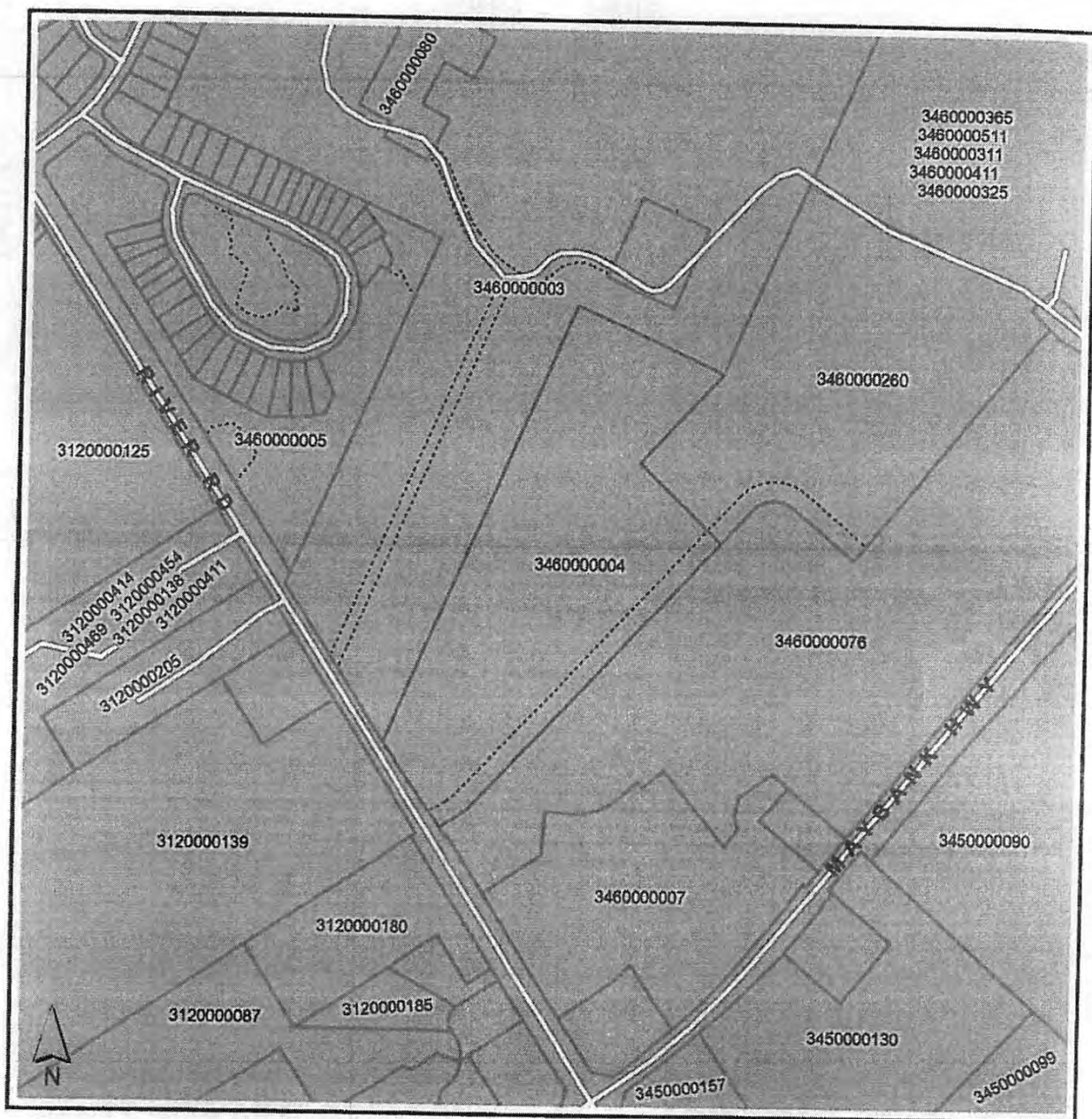
Parcel ID: 3460000008
 Owner1: MAYBANK 2754 LLC
 Prop St Number: 2754
 Prop St Name: MAYBANK
 Prop Type: HWY
 Acreage: 0.55
 Class Code: 650 - SPCLTY-OFC

Plat Book Page: T-139
 Deed Book Page: F583-757
 Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
 Date: 9/15/2015



Village at Fenwick Plantation

Parcel ID: 3460000004

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 0

Prop St Name: RIVER

Prop Type: RD

Acreage: 12.64

Class Code: 800 - AGRICULTURAL

Plat Book Page: AO-74

Deed Book Page: O352-691

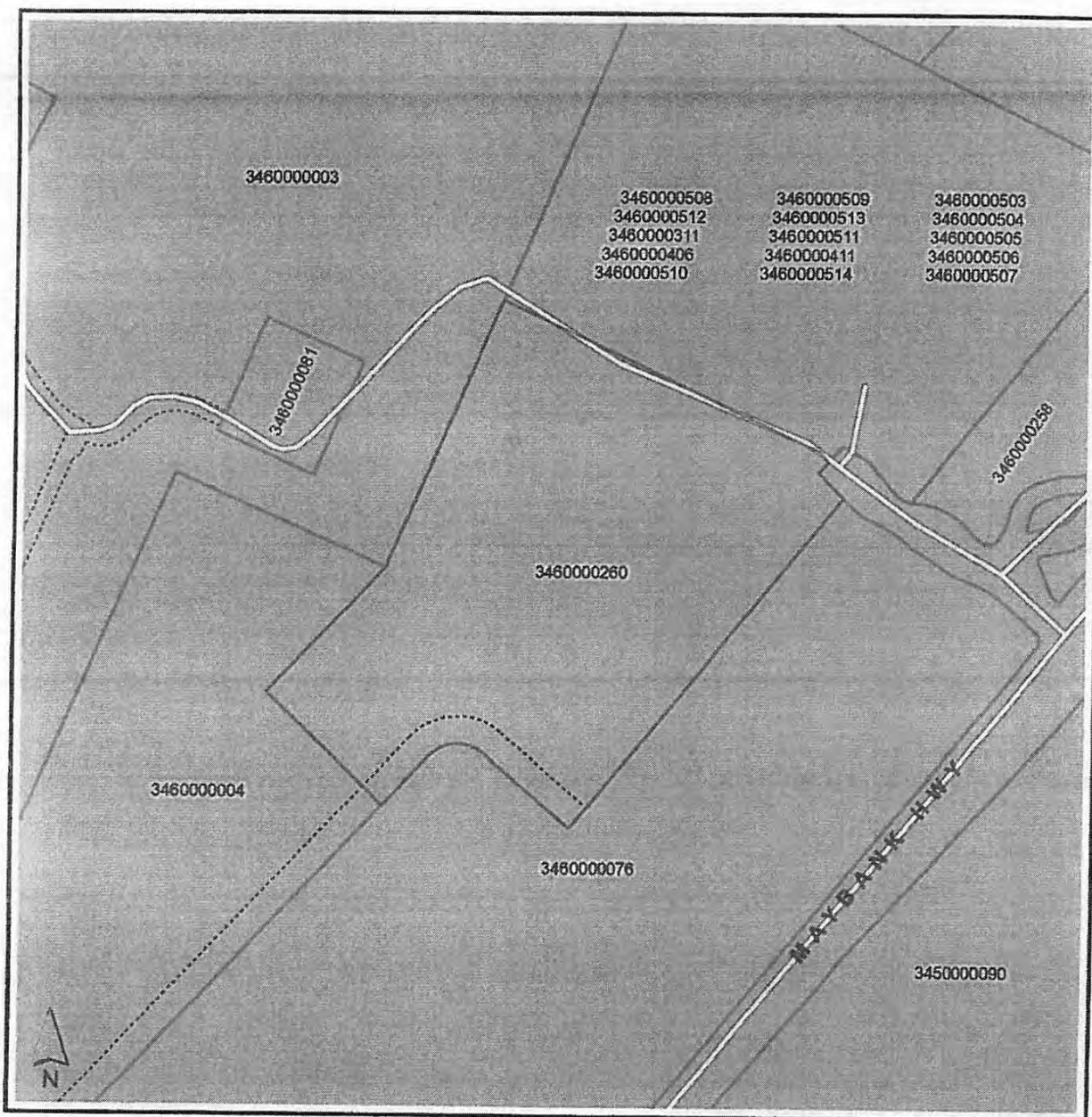
Jurisdiction: CITY OF CHARLESTON

0 220 440 880 Feet
1 inch = 345 feet



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Author: Charleston County SC
Date: 8/25/2015



Village at Fenwick Plantation

Parcel ID: 3460000260

Owner1: FAISON-FENWICK HALL

Prop St Number: 0

Prop St Name: FENWICK HALL ALLEE

Prop Type: null

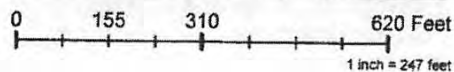
Acreage: 12.25

Class Code: 900 - RES-DEV-ACRS

Plat Book Page: EH-903

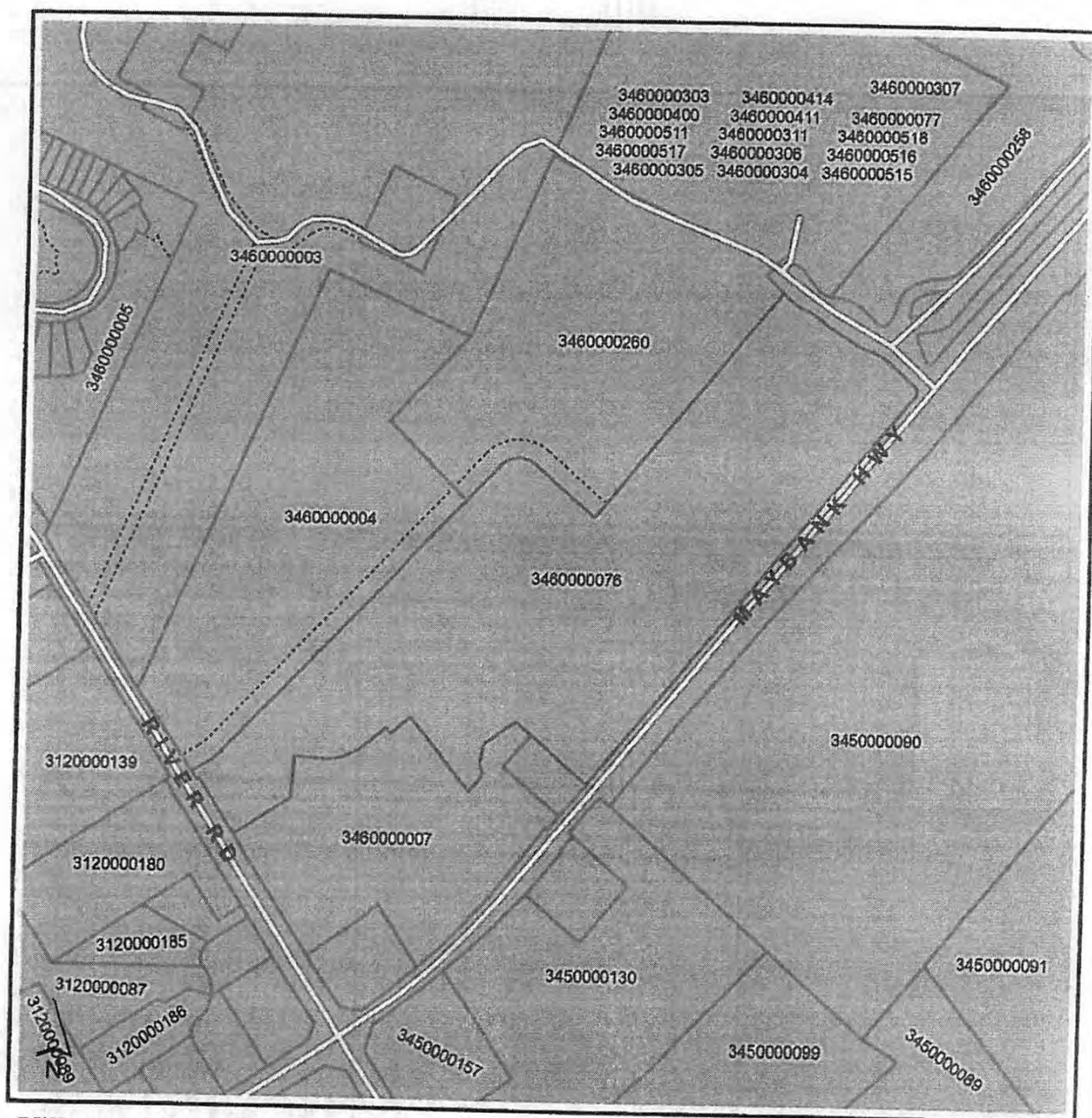
Deed Book Page: U537-570

Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 8/25/2015



Village at Fenwick Plantation

Parcel ID: 3460000076

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 0

Prop St Name: MAYBANK

Prop Type: HWY

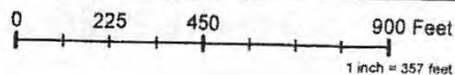
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Class Code: 800 - AGRICULTURAL

Plat Book Page: EH-817

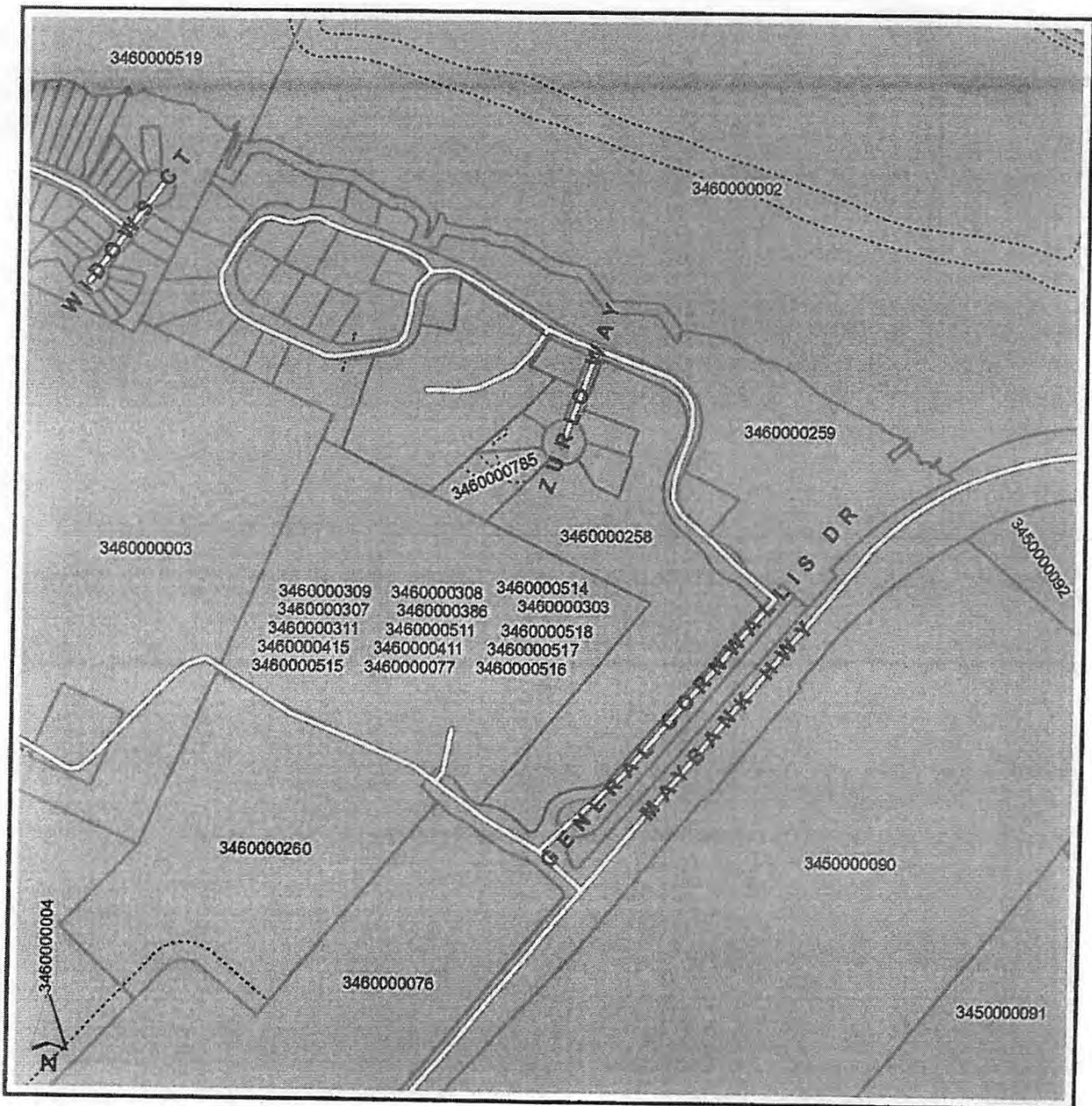
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Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 8/25/2015



Village at Fenwick Plantation

Parcel ID: 3460000258

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 0

Prop St Name: JOHN FENWICK

Prop Type: LN

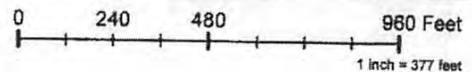
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Class Code: 800 - AGRICULTURAL

Plat Book Page: null

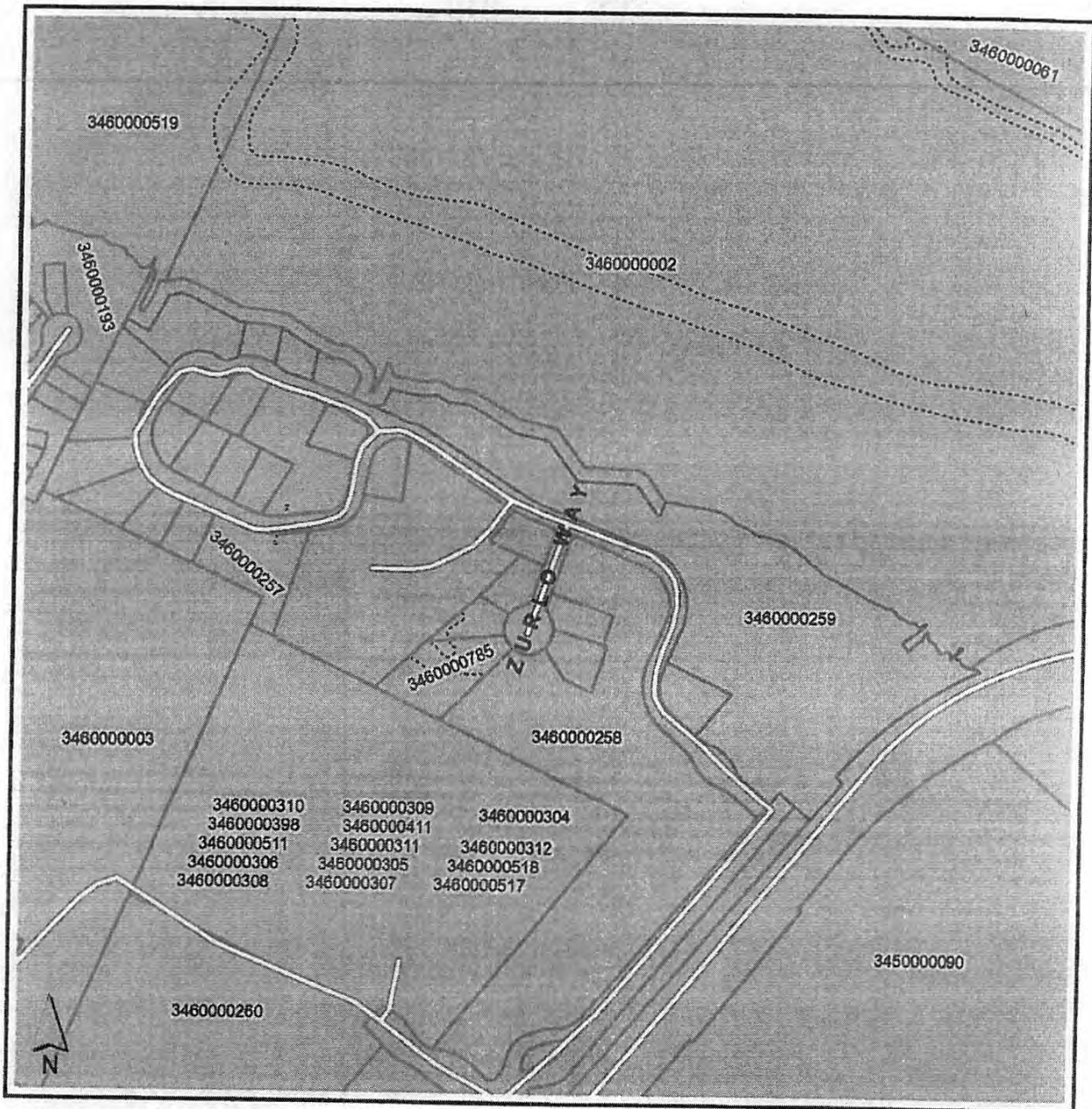
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Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 8/21/2015



Village at Fenwick

Parcel ID: 3460000259

Owner1: PENNY CREEK ASSOCIATES LLC

Prop St Number: 1513

Prop St Name: JOHN FENWICK

Prop Type: LN

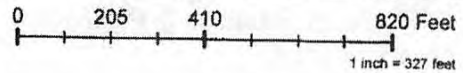
Acreage: 9.76

Class Code: 800 - AGRICULTURAL

Plat Book Page: XXX-L100154

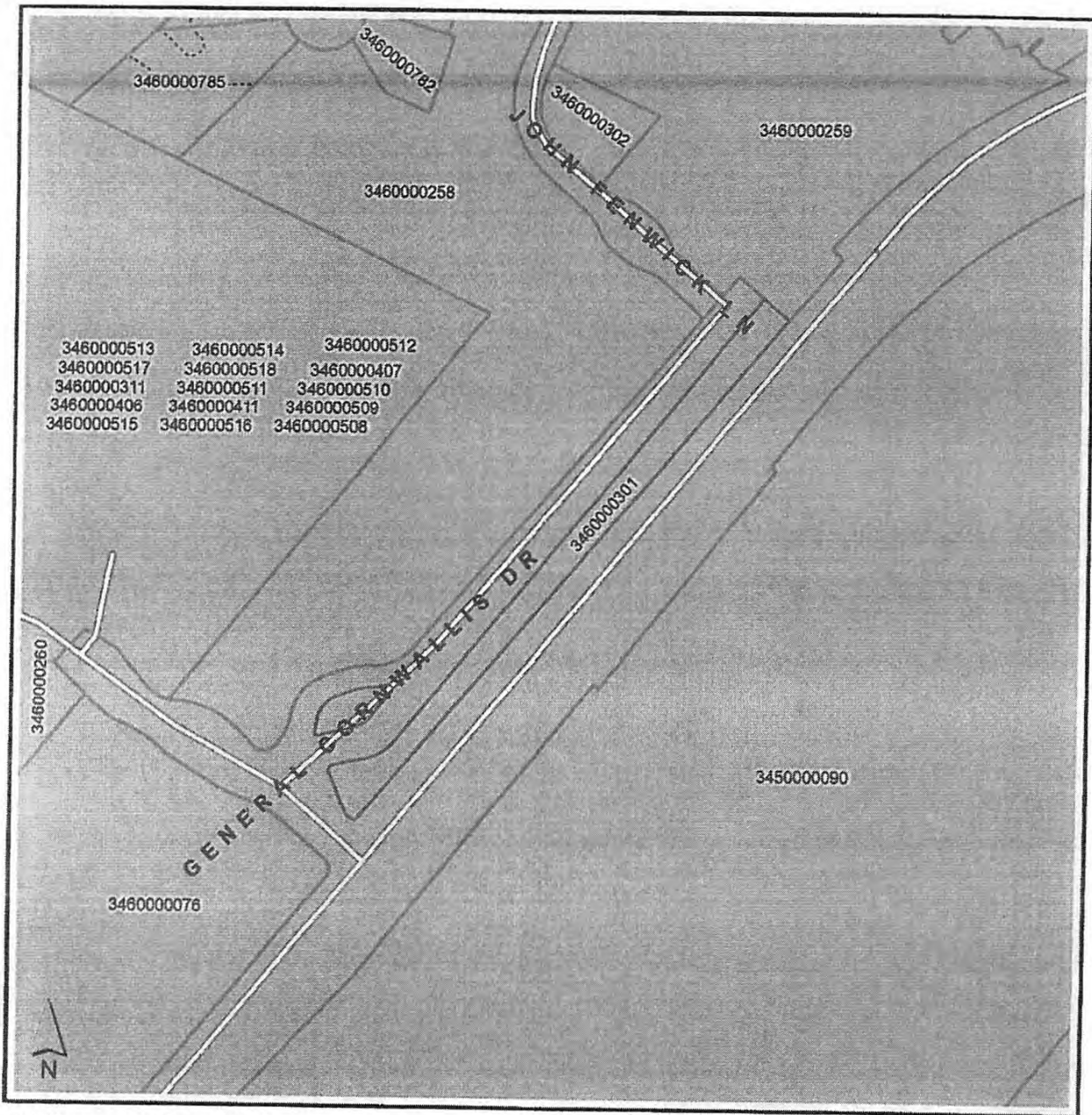
Deed Book Page: D323-439

Jurisdiction: CITY OF CHARLESTON



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Author: Charleston County SC
Date: 8/21/2015



Village at Fenwick

Parcel ID: 3460000301

Plat Book Page: EJ-722

Owner1: FENWICK HALL PLANTATION

Deed Book Page: F583-397

Prop St Number: 0

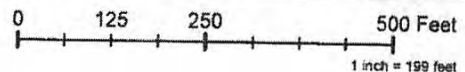
Jurisdiction: CITY OF CHARLESTON

Prop St Name: JOHN FENWICK

Prop Type: LN

Acreage: 1.31

Class Code: 990 - UNDEVELOPABLE

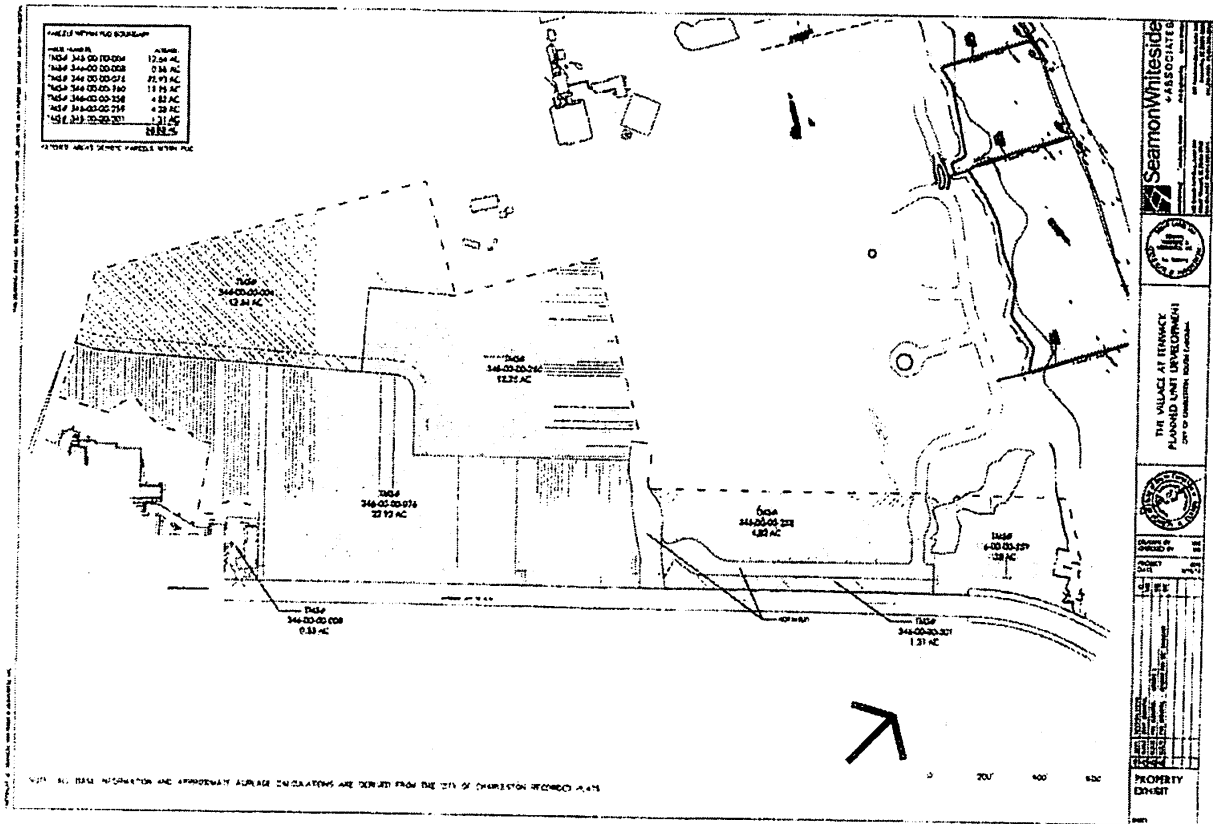


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Author: Charleston County SC
Date: 8/21/2015

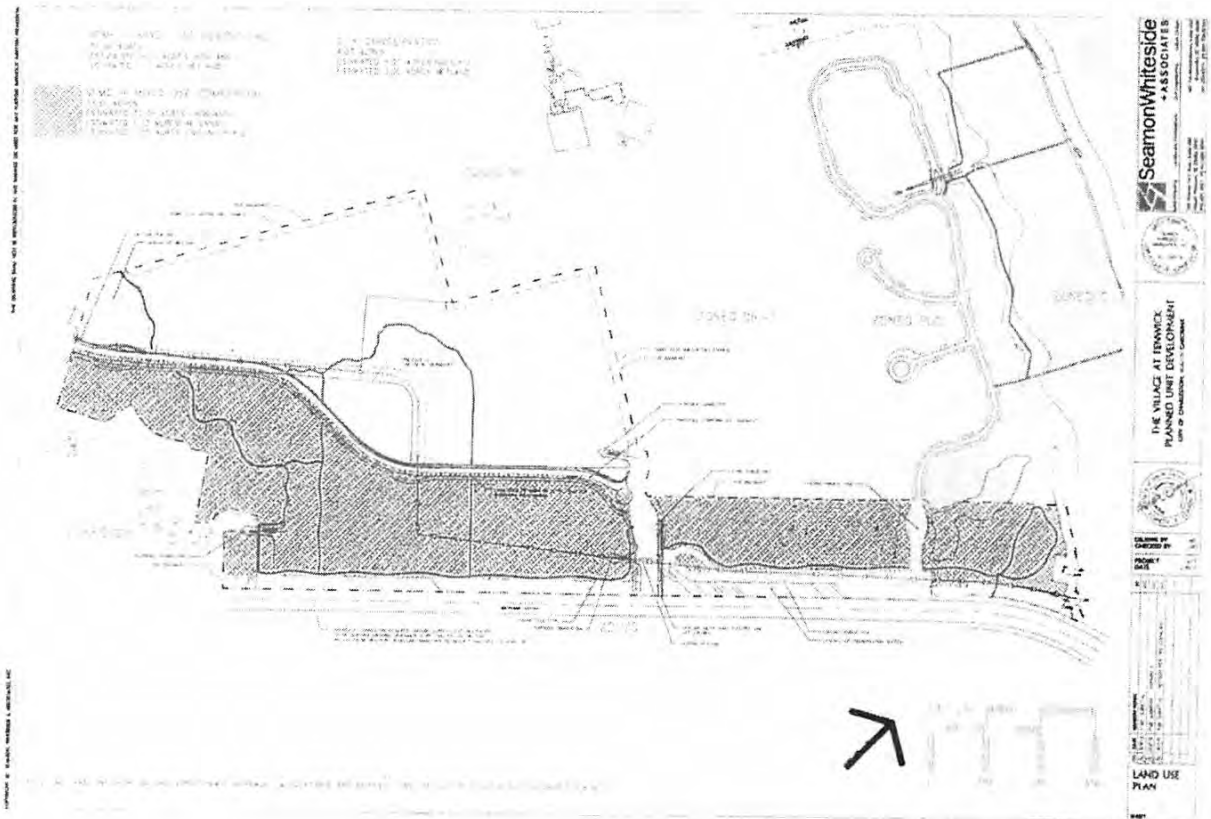
***Planned Development Guidelines
Village at Fenwick
December 7, 2015***

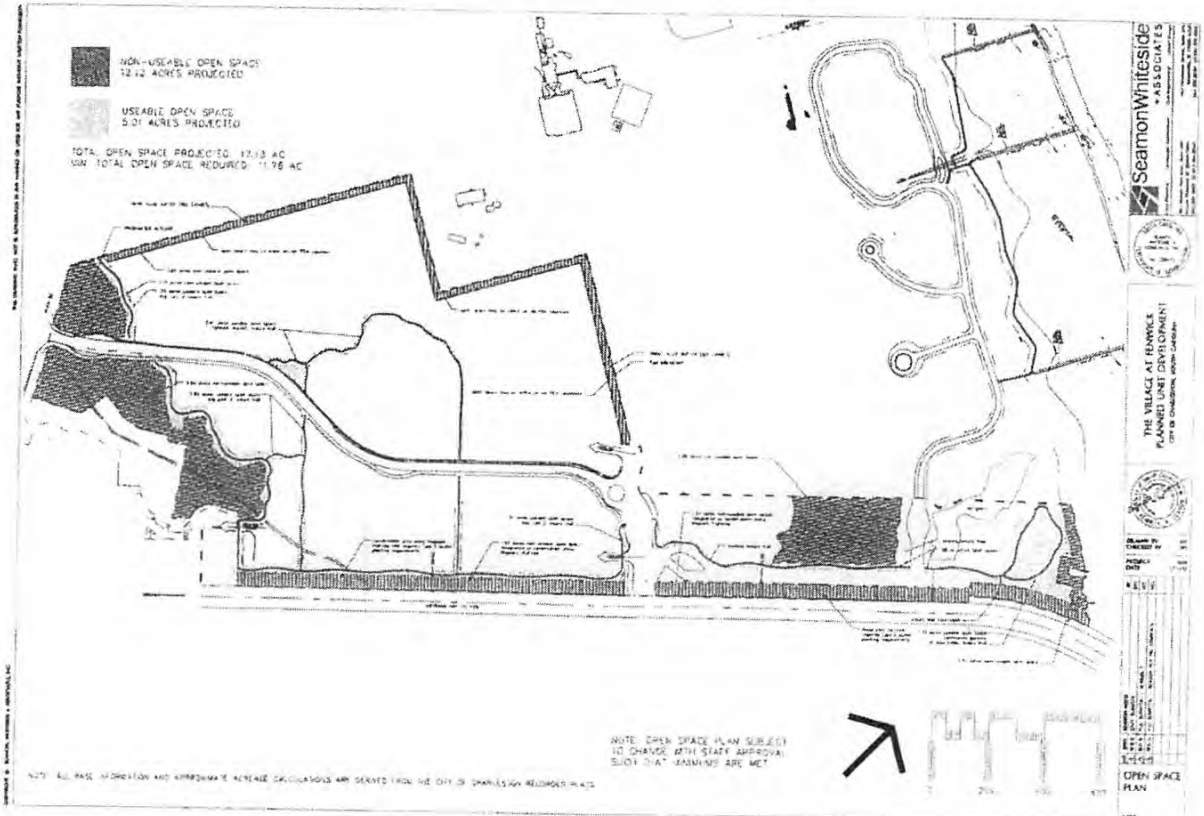
APPENDIX C



***Planned Development Guidelines
Village at Fenwick
December 7, 2015***

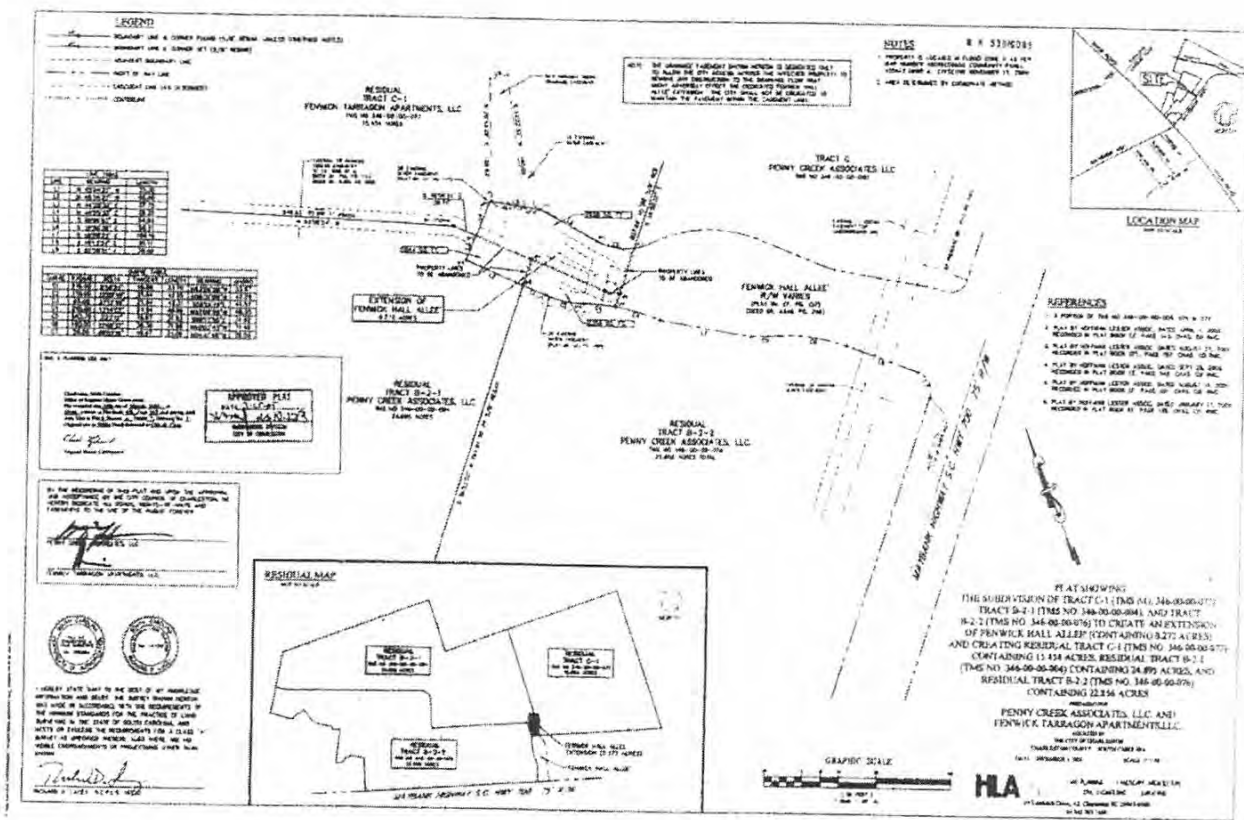
APPENDIX D

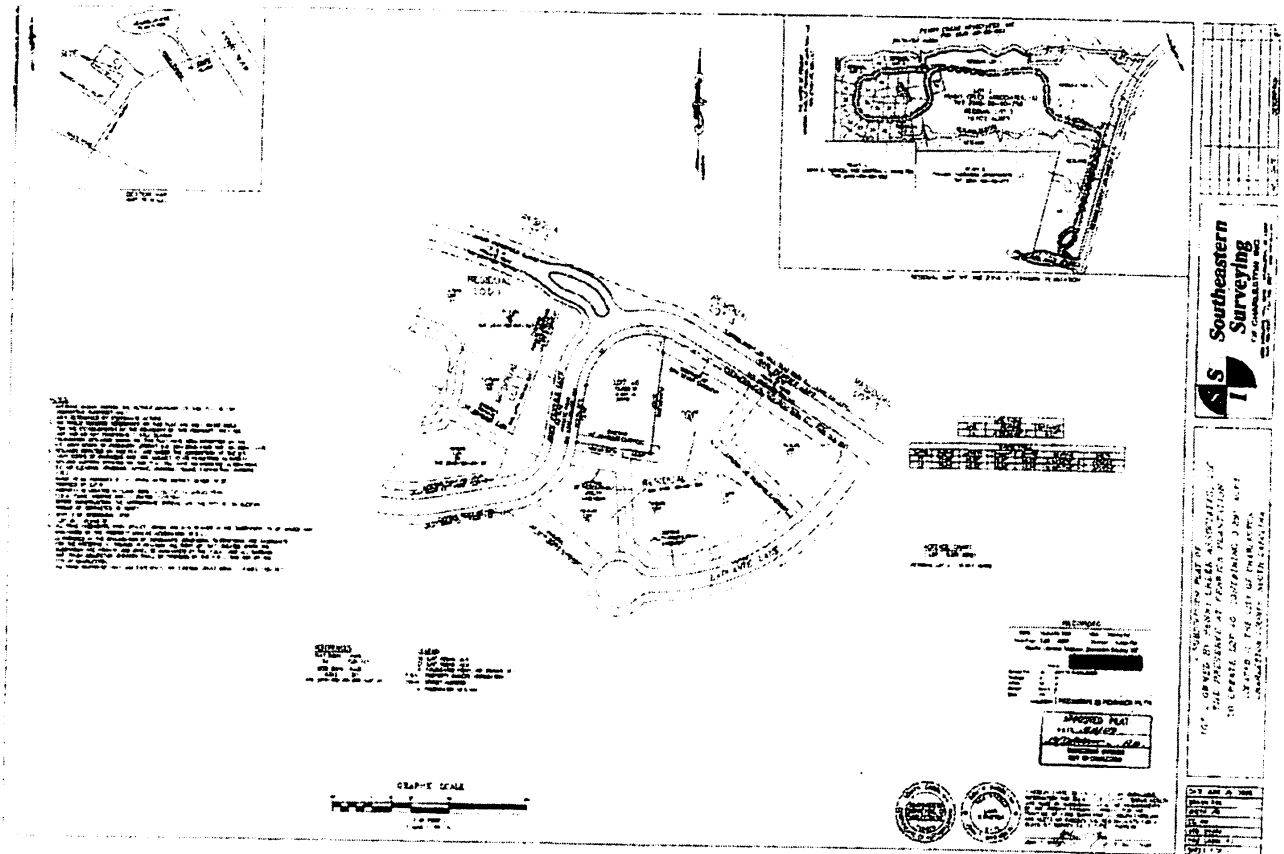


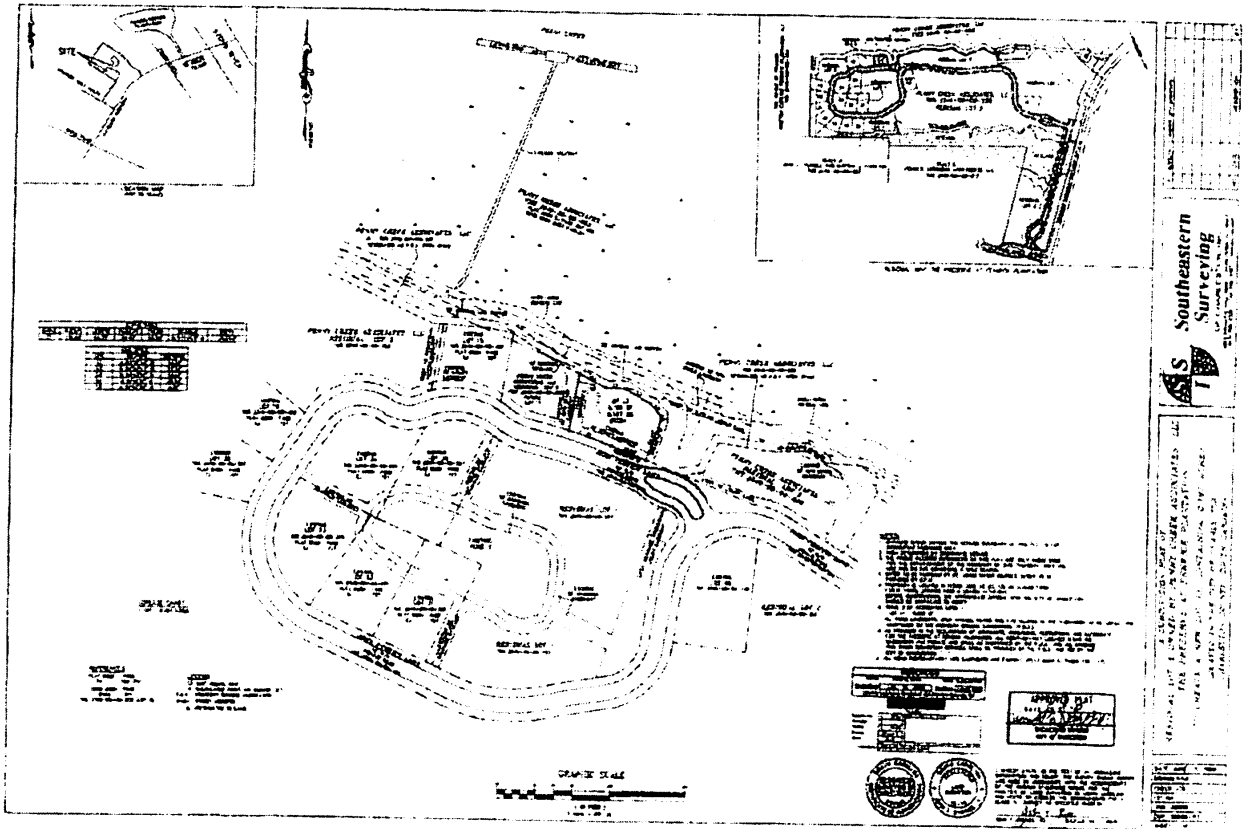


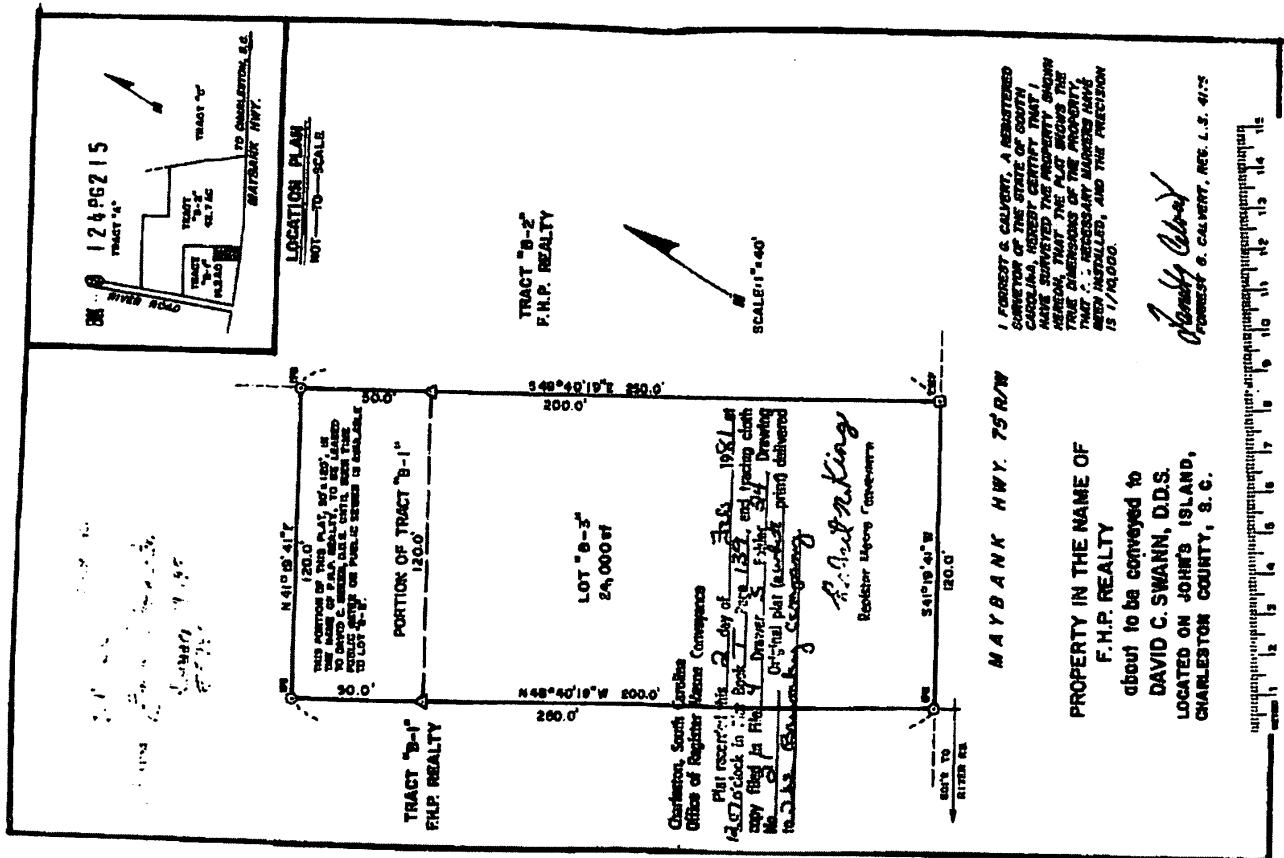
***Planned Development Guidelines
Village at Fenwick
December 7, 2015***

APPENDIX E









STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

RESTRICTIVE COVENANTS

WHEREAS, FHP Realty Company is the owner of the following described property, containing various zoning classifications of Conservation (C), DR-9 (Diverse Residential), GB (General Business) and General Office (GO) as fully described in the Zoning Ordinance of the City of Charleston, South Carolina; and,

WHEREAS, FHP Realty Company (hereinafter sometimes called Owner), has determined it to be in its best interest that its land be developed in an orderly manner, and in an effort to assure the same, has determined to place restrictive covenants on lands identified as assessor's Tax Map #346-00-00-04 in the County of Charleston, South Carolina and described as follows:

(See attached)

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that FHP Realty Company in full furtherance of its interests in assuring orderly development of its land does hereby declare that the portion of the above referenced property comprising forty-two and seven-tenths (42.7) acres, more or less, is and shall be held transferred, sold, conveyed, given, purchased, leased, occupied and otherwise disposed of and used subject to the following Covenants and Restrictions, which will run with the land:

- 1) A fifty (50) foot wide preserve shall be maintained along the frontage of Maybank Highway and shall be developed in accordance with the zoning classification of Conservation (C) as defined under the of the Zoning Ordinance of City of Charleston, South Carolina.
 - a) Within six (6) months of the recording of these covenants a certified plat shall be prepared establishing the preserve of mature trees having a diameter of twelve (12) inches or more, measuring three feet above the ground of the fifty (50) foot wide preserve.
 - b) No person shall cut, remove, thin, in any way damage, or create any condition injurious to a tree shown on the plat. The preserve shall not be developed for parking and no structure shall be erected thereon (except for signage and lighting).
 - c) Any development of the preserve shall be guided by a tree survey locating all trees over twelve (12) inches caliper (measured three [3] feet above the ground) by genus and species with grade elevations at the base of the trunk. The survey shall be prepared at a scale not less than one (1) inch equals twenty (20) feet (1"=20') and presented to the Planning and Zoning Commission.

- d) The Planning and Zoning Commission shall review petitions to cut, remove, trim, in any way damage, or create any condition injurious to a tree having a diameter of twelve (12) inches or more, measured three (3) feet above the ground. The commission shall base its decision on whether the public and private benefit that will result from granting the petition outweighs the public and private benefit derived from denying the petition.
- 2) The property commencing at a point at the western most corner on Maybank Highway and continuing to a point four hundred fifty (450) feet east, parallel to the right-of-way of Maybank Highway and to a depth of seven hundred (700) feet north of the preserve shall be developed in accordance with the zoning classification of G8 (General Business) as defined under the of the Zoning Ordinance of City of Charleston, South Carolina. The remaining 966 feet of property immediately north of the preserve zoned Conservation (C) and adjacent to the west of the property zoned G8 (General Business) and to a depth of three hundred fifty (350) feet shall be developed in accordance with the zoning classification of General Office (GO) as defined under the of the Zoning Ordinance of City of Charleston, South Carolina.
- 3) The balance of the forty-two and seven-tenths (42.7) acres is given a zoning classification of DR-9 (Diverse Residential) allowing for multi-family use limiting the average density to nine (9) dwelling units per acre of highland.
- 4) Access to this property will be limited to two (2) points of entry from Maybank Highway and one (1) point of entry on River Road, lining up with the access to the west with assessor's Tax Map #312-00-00-139. In addition to the curb cuts described above, the owners shall create an access road intersecting with Maybank Highway at a location east of the five-tenths (.5) acre parcel known as assessor's Tax Map #346-00-00-08 and aligning with a similarly designed access road on the south side of Maybank Highway.

Additionally, the owner shall preserve the avenue of oaks found along the eastern property line and work with adjacent property owners to create a major point of entry that could provide access to the office development fronting on Maybank Highway and the residential development.
- 5) All development site plans shall be submitted and approved by the appropriate staff agencies of the City of Charleston.
- 6) These restrictive covenants shall be binding upon the Owner, its heirs, successors and assigns, and the restrictions contained herein shall run with the land. Any violation or attempted violation of any of the covenants or terms hereof may be enforced by the City Council of the City of Charleston in an action at law or in equity against the person or persons or corporations or other entity violating or attempting to violate any restrictive covenants, either to prevent such violation from occurring or to require the specific performance hereof; PROVIDED, HOWEVER, no violation of these restrictive covenants shall result in a forfeiture or reversion of title, notwithstanding any other provision of this instrument.
- 7) No amendment to these restrictive covenants shall be had unless the same has been approved by the record owners of the parcel subject to the amendment and by the City Council of the City of Charleston; PROVIDED, HOWEVER, that the City Council shall only approve an amendment to these covenants in such manner as provided by applicable city ordinances for amendment of the zoning maps then in effect at the time of the proposed amendment.

IN WITNESS WHEREOF, we have hereunto set our hands and seals as of
this 28th day of October, 1986.

WITNESS:

FHP REALTY COMPANY

Mary Jane Miller BY: Eugene C. Santos
Sandra H. Reed Eugene C. Santos, Partner
Mary Jane Miller BY: Sherman Yarbrough
Sandra H. Reed Sherman Yarbrough, Partner

STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

PROBATE

Personally appeared before me Mary Jane Miller who being duly
sworn deposes and says that he/she saw Eugene C. Santos, Partner of FHP
Realty Company, sign the within Restrictive Covenants and that he/she along
with Sandra H. Reed witnessed the execution
thereof.

Sworn to me this 28th day of October, 1986.

Sandra H. Reed
Notary Public
My Commission Expires: MY COMMISSION EXPIRES 11-25-1995

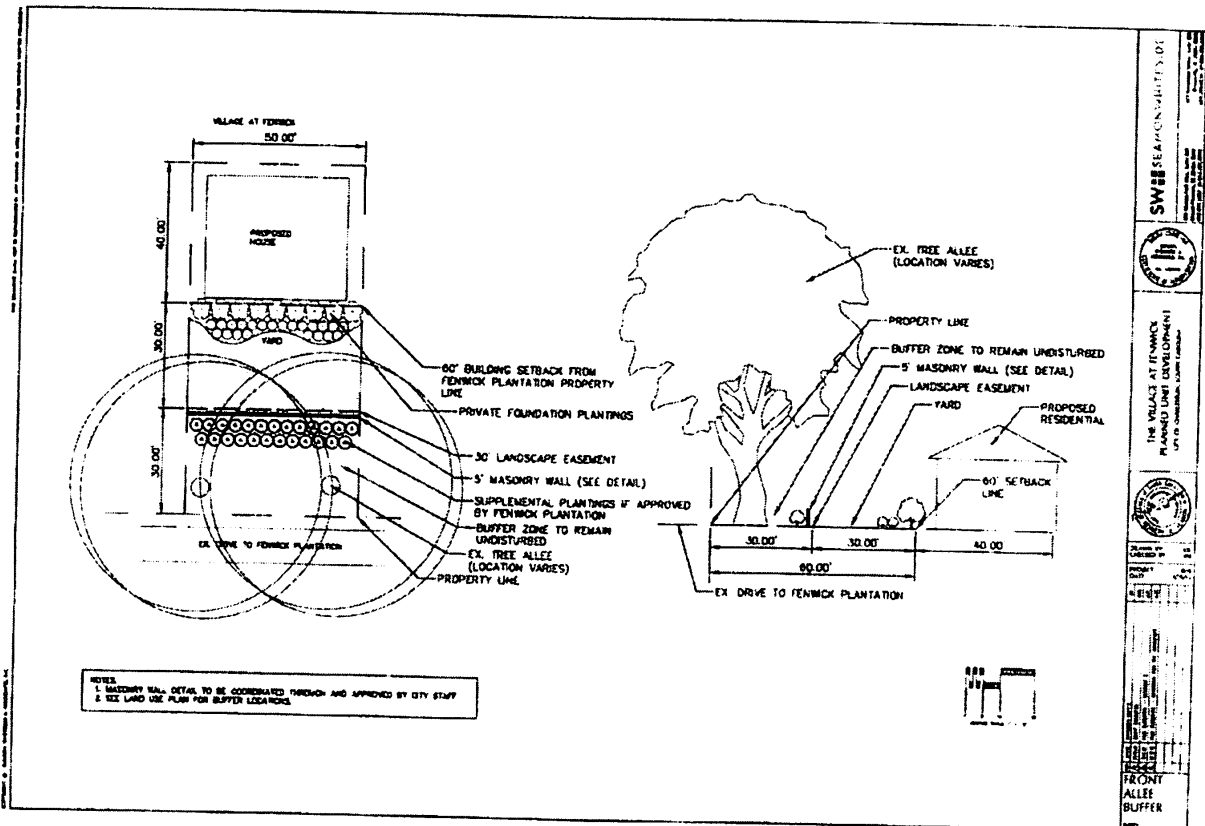
STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

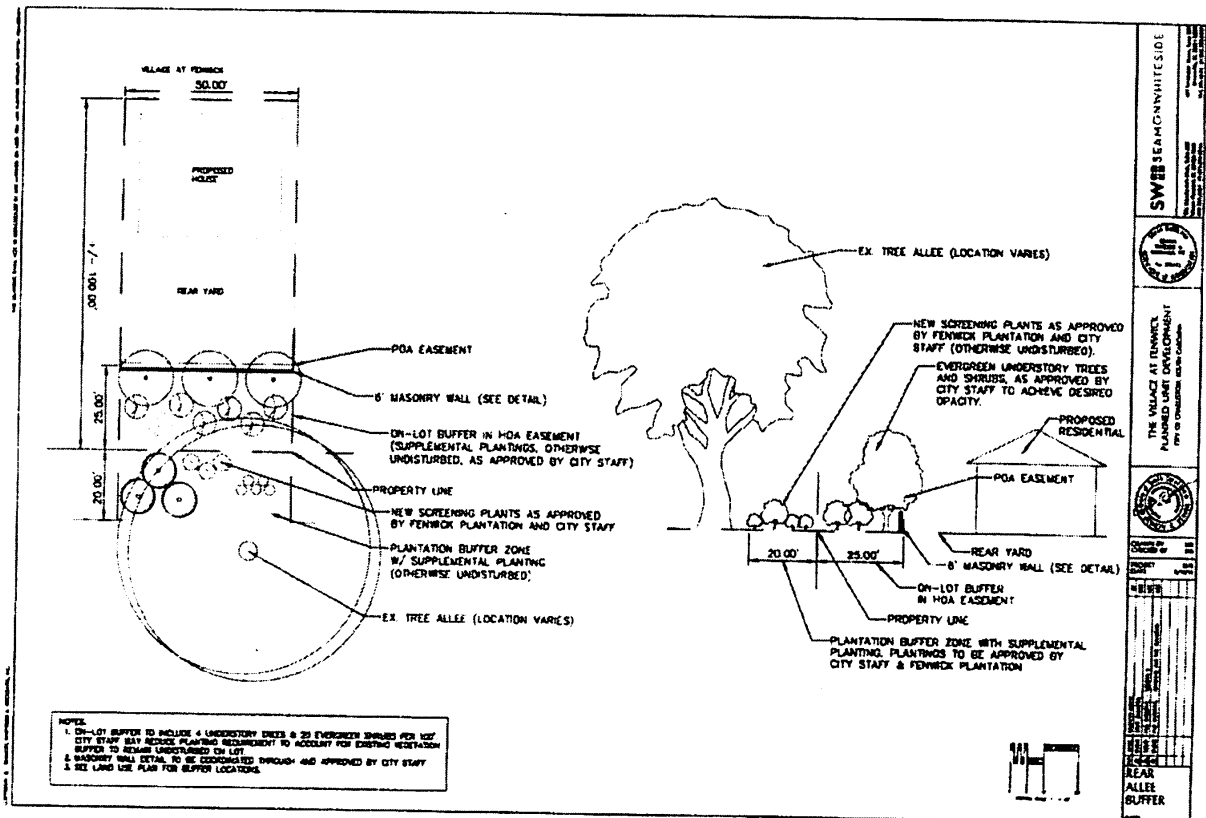
PROBATE

Personally appeared before me Mary Jane Miller who being duly sworn deposes and says that he/she saw Sherman Yarborough, Partner of FHP Realty Company, sign the within Restrictive Covenants and that he/she along with Sandra H. Reed witnessed the execution thereof.

Sworn to me this 28th day of October, 1986.

Sandra H. Reed
Notary Public
My Commission Expires: MY COMMISSION EXPIRES 11-25-1995





BUFFERS

10/13/15

This PUD agreement between Fenwick Hall Planation [John Pernell] and Penny Creek Associates is to state clearly the required buffers along west side of the south Allee of Oaks leading to Maybank Highway and also the buffer along the property line between Fenwick Hall running east to west and the PUD. [The plantation buffer shall run from the new gate noted below and extend to the west property line to the edge of wetlands.]

- Attached drawings "rear and front allee buffers" dated 9/19/15 from SWA,**
- These buffers will become part of the approved PUD, therefore will be restricted via each and every deed.**
- The HOA will have full and complete responsibility to not only maintain the buffers but to enforce them as well.**
- It is acknowledged that buffers are to be installed and landscaping complete prior to any home construction in the PUD neighborhood.**
- Upon installation it shall be the HOA's duty to maintain and enforce the buffers.**

GATES AGREEMENT

Two [2] gates are to be installed, one at each end of the Allee of Oaks running from the end of Fenwick Allee [a public street], to the north end at the property line of Fenwick Hall Plantation

The south gate will be simple painted wooden plantation style gate, the north gate at the property line shall be iron with brick columns. Both gate designs to be submitted to the Fenwick Plantation HOA for approval prior to proceeding.

Penny Creek Associates agrees to reimburse all material cost for the south gate, as soon as invoices are submitted.

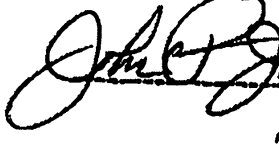
It is acknowledged that a contribution shall be made to the owners of Fenwick Hall in the amount of \$30,000 by the neighborhood PUD developers. This shall be used toward the cost of the north gate [at the plantation property line].

This contribution shall be in place prior to any construction activity on the new neighborhood development.

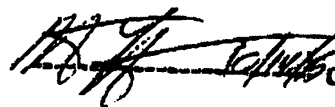
It is acknowledged that the maintenance of the Allee of Oaks shall be by the owners of Fenwick Hall.

Acknowledged and Approved

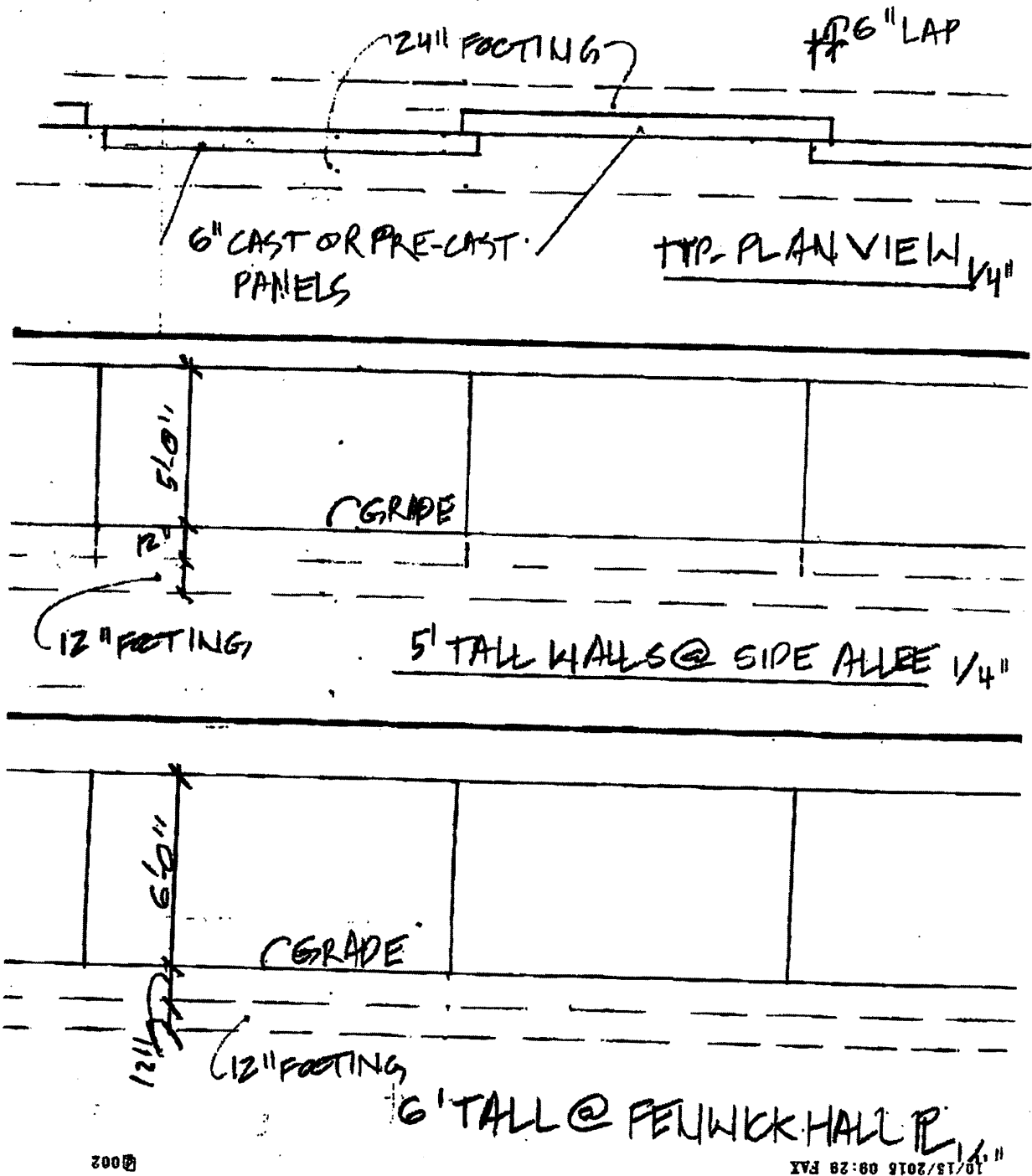
Fenwick Hall Plantation
John Pernell

 date
10-14-15

Penny Creek Associates
Mitch Laplante

 date
10-14-15

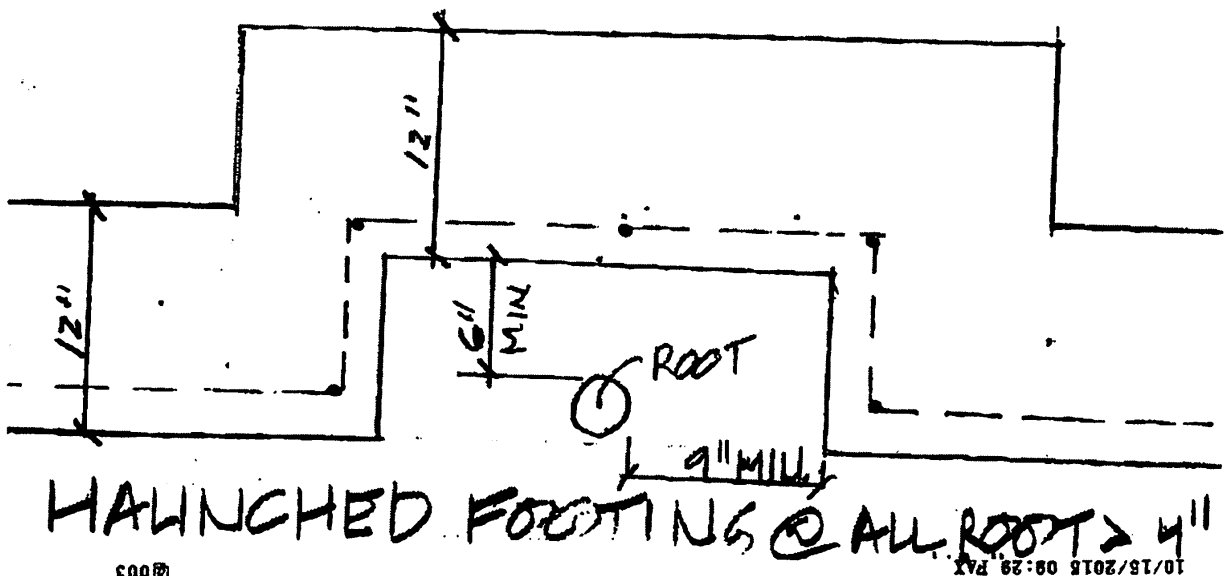
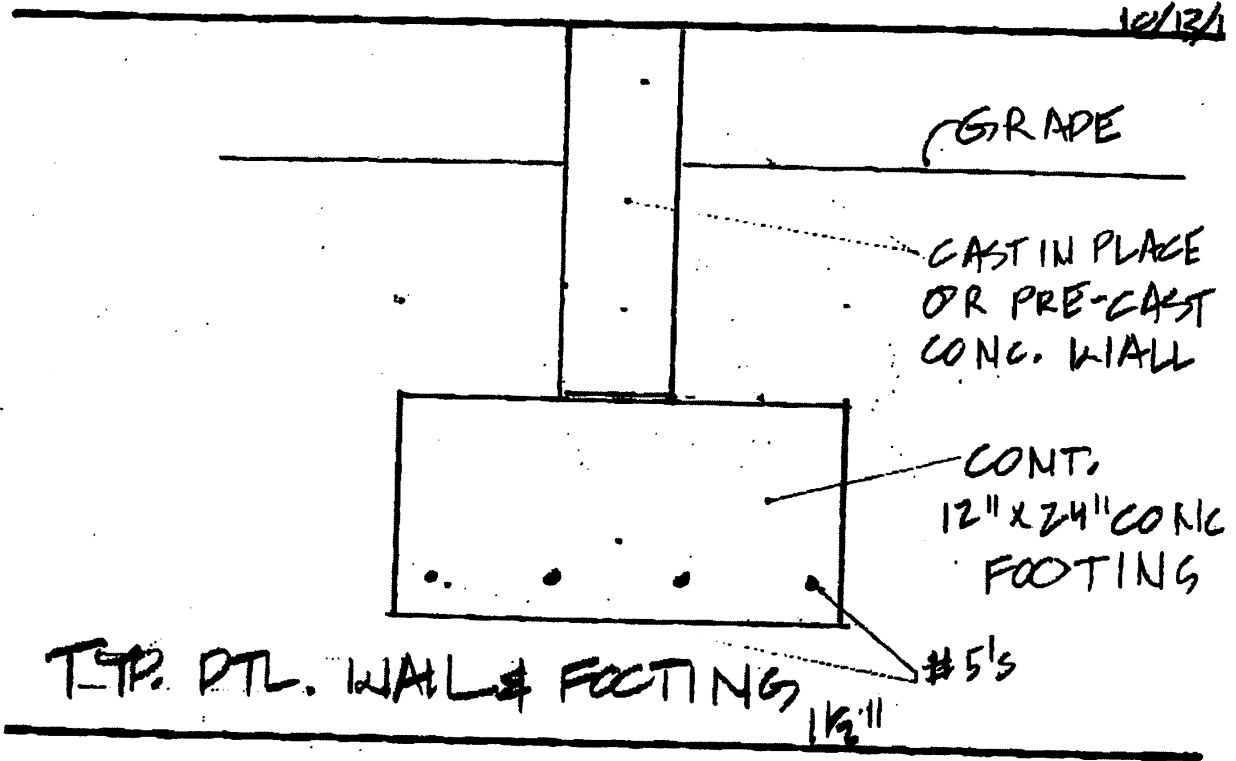
FENWICK VILLAGE P.H.D. 10/13/15 BUFFER COURTYARD WALLS



2002

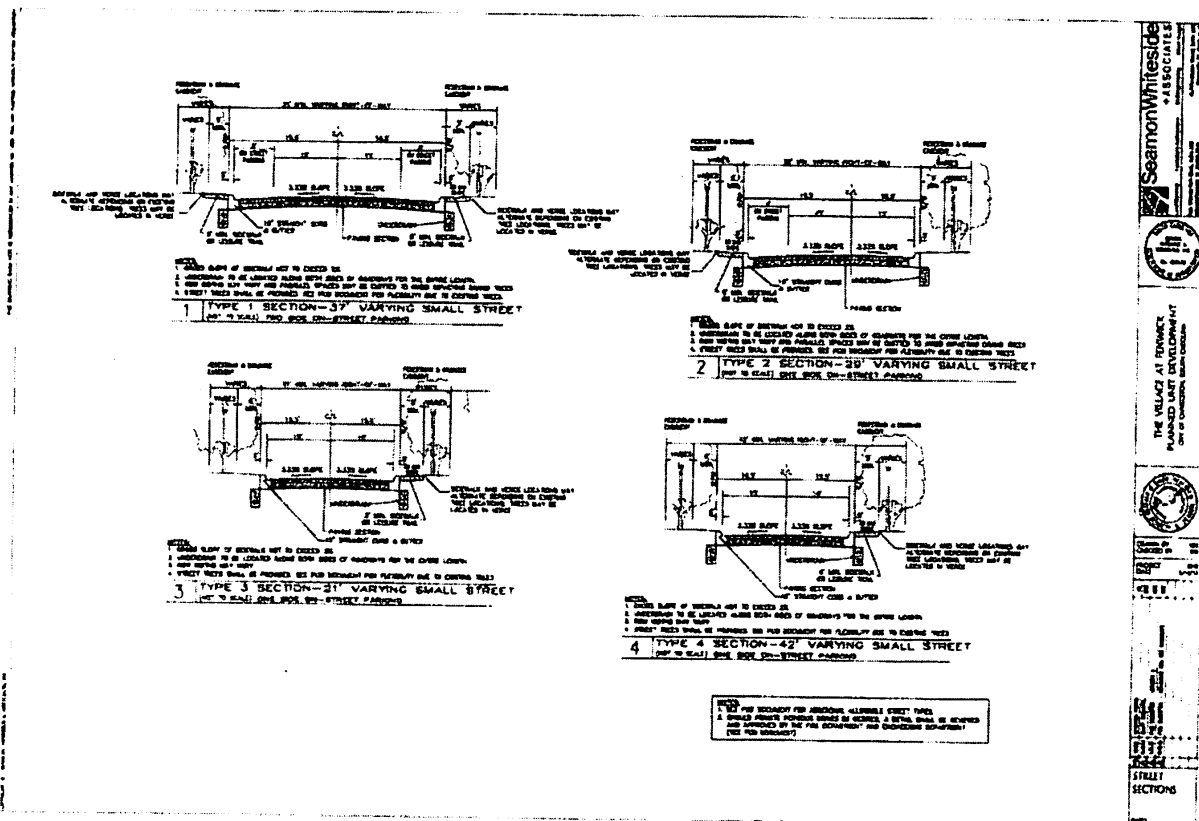
10/13/2015 09:28 FAX

FENWICK VILLAGE F.U.D. BUFFER COURTYARD WALL DETAILS



***Planned Development Guidelines
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December 7, 2015***

APPENDIX G



*Planned Development Guidelines
Village at Fenwick
December 7, 2015*

APPENDIX H

Sec. 54-317. - Required number of off-street parking spaces by land use.

- a. Minimum number of parking spaces required. Table 3.3 indicates off-street parking requirements for land uses. All calculations shall be rounded up to the next whole number. The total parking requirement for mixed uses shall be the sum of the requirement for each use, except that "shopping center" developments, as defined in Table 3.3, shall be exempt from this requirement. Parking spaces required for one use shall not be used to satisfy the parking requirement for another use with the exception of churches, synagogues or other places of worship. Additional parking for bicycles shall be required for certain land uses pursuant to Section 54-320. For the purposes of this Section, "peninsula" shall mean the area of the City of Charleston bounded by the Cooper River to the east, the Ashley River to the west and south, and the Charleston City Limits to the north.
- b. Maximum area of paved parking spaces and aisles allowed for surface parking lots. The maximum number of hard surfaced parking spaces allowed for a shopping center development, as defined in Table 3.3, shall not exceed the total number of spaces required pursuant to this section, increased by 20 percent. All spaces and appurtenant aisles in excess of this 20 percent cap, or areas within the parking lot equivalent in size to the number of excess parking spaces multiplied by 450 square feet, shall be non-hard surfaced utilizing slag, gravel, ROC, grasscrete, or similar porous material or simply a grass field.

TABLE 3.3: OFF-STREET PARKING REQUIREMENTS

USE	NUMBER OF SPACES REQUIRED
RESIDENTIAL:	
- One (1) family detached dwelling	2 per unit
- One (1) family attached dwelling & mobile home	
- Two (2) family dwelling	2 per unit
- Multiple (3 or more) dwellings or dwellings (one or more) within commercial bldgs.	1½ per unit
- Boarding house	1 per 2 bedrooms
- Dormitory, sorority or fraternity house	1 per 2 beds
- Nursing home, homeless shelter, orphanage, sanitarium, boarding home for sheltered care; where above uses are communal living with central dining room	1 per 6 beds
- Special needs housing; housing restricted by funding agencies, public housing agencies, or	1 per 3 dwelling units

	other such organizations, to elderly, handicapped individuals or families, or low income occupants based on current income limits established by the U.S. Department of Housing and Urban Development	
-	Affordable housing	1 per 4 dwelling units
ACCOMMODATIONS:		
-	Accommodations uses, except bed and breakfasts	2 per 3 sleeping units
-	Bed and breakfasts	1 per bed and breakfast unit
-	RV parks	1 per trailer accommodation or "hook-up"
INSTITUTIONAL AND COMMUNITY SERVICE:		
-	High schools (grades 9-12)	1 per each 4 seats in the main assembly hall plus 1 for each classroom
-	Preschool, kindergarten, elementary and junior high schools (grades preschool through 8)	2 spaces for each employee
-	Day care centers	2 per employee
-	Church, synagogue, place of worship (other than on the peninsula)	1 per 4 seats design capacity of the principal place of worship; 80 percent of the required spaces may be provided at an off-site public or private parking lot which is accessory to another use not open or operating during the time of weekend services and within 400 feet of the place of worship. Written permission from owner of lot indicating times parking is to be permitted shall be submitted to zoning administrator prior to approval.

	Church, synagogue, place of worship (on the peninsula)	1 per 8 seats design capacity of the principal of the principal place of worship with off-site parking allowed same as above.
	Funeral home, mortuary, crematorium	1 per 4 seats in sanctuary or 1 per 2 employees whichever is greater.
	Health care facility;	1 per 2 beds
	Hospital, accessory uses	
	Health care facility;	1 per employee plus 1.5 per outpatient treatment room.
	Ambulatory care, clinic, accessory uses	
	Laboratory, research facility	1 per 2 employees
	Place of public assembly auditorium, stadium, community center, theater	1 per 6 seats or patrons (based on maximum occupancy etc. as allowed by Building Code)
	Trade School, College, Institution of higher learning and accessory uses to such facility except dormitory, sorority, and fraternity housing	1 per 100 square feet of total classroom space
	Library	3 per 1000 square feet of interior floor area.
BUSINESS, ENTERTAINMENT AND OFFICE:		
	Art gallery (non-retail), museum (on the peninsula)	1 per 600 square feet (excluding storage)
	Art gallery (non-retail), museum (all other areas)	1 per 400 square feet (excluding storage)
	Automobile repair garage	1 per 2 employees at maximum employment on a single shift plus 1 per 150 square feet of automobile repair space.

-	Office, professional and public buildings bank (on the peninsula)	1 per 500 square feet (excluding halls, stairwells, storage/elevator shafts and bathrooms)
-	Office, professional and public buildings, bank (all other areas)	1 per 240 square feet (excluding halls, stairwells, storage/elevator shafts and bathrooms)
-	Restaurants; sit down establishments serving food and beverage (on the peninsula)	1 per 150 square feet of inside patron use area (excluding bathrooms), and 1 per 200 square feet of outside seating area if available.
-	Restaurants, sit down establishments serving food and beverage (all other areas)	1 per 90 square feet of inside patron use area (excluding bathrooms), and 1 per 200 square feet of outside seating area if available.
-	Restaurant, fast food, take-out and/or express prepared food delivery only	1 per 75 square feet of inside patron use area, plus 1 per square feet of outside seating area if available.
-	Restaurant, drive-thru with no use area	1 per employee at maximum shift inside patron plus 1 per delivery vehicle plus 1 per 250 square feet of outside seating area.
-	Retail and personal service establishments not including food stores (on the peninsula)	1 per 400 square feet of gross floor area.
-	Retail and personal service establishments not including food stores (all other areas)	1 per 200 square feet of gross floor area
-	Gas stations with convenience stores	In addition to one space for each pump facility, one per 400 square feet of floor area
-	Food stores (off-peninsula)	1 per 300 square feet of floor area
-	Food stores (on-peninsula)	1 per 400 square feet of floor area
-	Car wash (full service)	2 per bay/stall plus 1 space per employee
-	Car wash (self serve)	1 per washing module

-	Retail specialty stores selling only furniture, or large appliances, or carpet, or lumber, or or plants, or other specific types of household furnishings	1 per 400 square feet of total floor area excluding storage areas plus 1 per store delivery vehicle.
-	Shopping center - a commercial development which includes one or more retail type uses listed in this table. The total floor area must equal 20,000 square feet or more, in one or more buildings, on one or more lots which are designed and laid out to function as an interrelated development, as evidenced by both shared driveways and parking.	1 per 200 square feet leasable floor area for the first 20,000 total square feet. 1 per 250 square feet for 20,001 to 140,000 total leasable square feet. 1 per 300 square feet for total leasable square feet over 140,001.
-	Mini warehouse, self storage warehouse facility	1 space per 6,000 square feet of net leaseable square footage of warehouse space, or fraction thereof, with up to half the required spaces and associated driveway areas permitted to remain unmarked for trucks and other large vehicles to park and maneuver.
-	Dry cleaners, laundry services	1 per 300 square feet of customer use area plus 2 per 3 employees at maximum employment on a single shift.
-	Private club, fraternal lodges, country clubs	1 per 3 persons allowed by Building Code in the main assembly room or auditorium.
INDUSTRIAL:		
-	Manufacturing, wholesale, or other industrial establishments not catering to retail trade	1 per 2 employees at maximum employment on employment on a single shift plus 1 per company vehicle.
RECREATIONAL:		
-	Recreational facilities (on the peninsula)	1 per 8 patrons based on occupancy limit as determined by Building Code or based on design capacity.

-	Recreational facilities (other areas)	1 per 4 patrons based on occupancy limit as determined by Building Code or based on design capacity.
-	Marinas	1 per 4 dry slips
		1 per 2 wet slips
-	Driving range	1 per tee plus 1 per employee at maximum employment on a single shift.
-	Golf Course	2 per tee plus 1 per employee at maximum employment on a single shift.
-	Bowling alleys	5 per alley
-	Health club	1 per 400 square feet of total floor area.

(Ord. No. 1998-76, § 3, 4-28-98; Ord. No. 2002-92, § 7, 8-13-02; Ord. No. 2004-70, § 1, 7-20-04; Ord. No. 2006-428, § 9, 9-26-06; Ord. No. 2007-214, § 1, 11-20-07; Ord. No. 2014-130, §§ 2-4, 10-14-14)

*Planned Development Guidelines
Village at Fenwick
December 7, 2015*

APPENDIX I



October 16, 2013

Anna Lewis
Permitting Coordinator
501 Wando Park Boulevard, Suite 200
Mount Pleasant, South Carolina 29464

Re: TMS# 346-00-00-004, 008, 076, 258 & 260 / Charleston County, SC

Dear Mrs. Lewis:

This letter will verify that South Carolina Electric and Gas Company has sufficient electrical and natural gas capacity to serve the referenced tracts above. Electric and gas service will be provided in accordance with SCE&G's General Terms and Conditions, other documents on file with the South Carolina Public Service Commission, and the Company's standard operating policies and procedures.

Please contact me at 843-576-8447 if you have any questions or if I may be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven M. Morillo".

Steven M. Morillo
Customer Service Engineering



October 16, 2013

Village at Fenwick Plantation
Charleston, SC 29455

RE: TMS: 4346-00-00-004, 008, 076, 258 & 260

To Whom It May Concern:

This letter is to confirm that Comcast Cable is the franchised video service provider for the new location of Village at Fenwick Plantation Charleston, SC. Upon execution of a property-specific agreement, the terms of which will be negotiated separately, Comcast can and will extend its cable plant to the property so that the residents there will have access to Xfinity Video, High-Speed Data, and Digital Voice services.

Depending on cost to extend the plant, the owner may be asked to bear some of the cost of cable plant construction.

Should you have any additional questions, please contact me at 843-266-3094.

Best Regards,

Andy Mcilwain
Business Development Account Executive
Comcast of South Carolina, Inc.
4400 Bell Oaks Drive
North Charleston, SC 29405
(843) 266-3094 office
Andrews_mcilwain@comcast.com



To:
Cc:
Bcc:
Subject: Fw: TMS #346-00-00-004, 008, 076, 258 & 260

From: RALPH WATKINS <ralph_watkins@charleston.k12.sc.us>
To: Anna S Lewis <ALewis@seamonwhiteside.com>,
Cc: Bill Lewis <william_lewis@charleston.k12.sc.us>
Date: 10/16/2013 08:32 AM
Subject: Re: TMS #346-00-00-004, 008, 076, 258 & 260

The site is in the Angel Oak ES, Haut Gap Middle, and St John's High School attendance zone. Seats will be made available to residents of the project. We will send a formal letter as soon as possible. Do you have a rough idea of when the site will be fully built out?
V/r, rw

--
Ralph Watkins, PE
Facilities Planner
Capital Programs Department
Charleston County School District
3999 Bridge View Drive
North Charleston, SC 29405
Ph. 843-566-1983
Fax 843-746-1374
Excellence is Our Standard

APPENDIX J

(Full Document on File with City of Charleston)

Isolate 3

Investigators identified Isolate 3 between site 38CH1716 and 38CH1864 in an area of mixed pine and hardwood forest (see Figures 1, 2, and 25). Investigators excavated eight shovel tests at 15 meter intervals, two in each cardinal direction (see Figure 25). Soils in the area consisted of grayish brown sand 0-55 cm bs underlain by yellow sand 55-75 cm bs. Investigators recovered one small slipware sherd 30-50 cm bs. No features were identified on the surface or in any of the shovel tests.

Project Summary

The project tract lies near landscape features that are contributing elements to the Fenwick Hall NRHP property. Development of the project tract may affect Fenwick Hall by visually detracting from the property's historic landscape. Specifically, the landscape features that may be affected are the double oak allee from River Road to the house, the single oak allee from SC Route 700 to the house, and the views from the house and surrounding grounds. We recommend the developers consult with the SHPO to ensure that building placement, height, and materials are designed so that there is no visual effect to these approaches to and from the house and grounds.

Archaeologists identified seven archaeological sites (38CH1716, 38CH1861-38CH1866) and three isolated finds (Isolates 1-3) on the project tract. We recommend 38CH1716, 38CH1861-38CH1866, and Isolates 1-3 not eligible for the NRHP. Additional management of these sites and isolated finds is not warranted. However, if at any time during construction activities on the tract cultural features or suspected cultural features, such as dense artifact or shell clusters, articulated bricks, or human remains are encountered work should stop immediately and the SHPO should be notified. If suspected human remains are encountered the Charleston County Coroner also should be notified immediately.

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Village at Fenwick
December 7, 2015*

APPENDIX K

(Full Document on File with City of Charleston)

CONCLUSIONS

Maybank Highway (SC 700) is a two lane state highway that runs in a northeast-southwest direction across Johns Island in the metropolitan area of Charleston, South Carolina. The traffic congestion and travel times along Maybank Highway have increased in recent years and are expected to worsen as the area continues to grow.

The goal of this study was to examine existing (2014) and future year (2040) traffic conditions along this portion of the Maybank Highway corridor and to examine different alternatives to alleviate the westbound queuing on Maybank Highway westbound onto Johns Island.

The future year operational analysis was performed for Existing, Future No-Build and Future Build scenarios with and without I-526 extension. The Build scenario includes three phases of construction. Phase 1 is the widening of Maybank Highway. Phase 2 is the construction of the Northern Pitchfork Road. Phase 3 is the construction of the Southern Pitchfork Road. The key features of these improvements are:

- Widening Maybank Highway to three lanes from the existing merge point approximately 1,650 feet west of Old Maybank Highway to River Road. This will allow for two inbound lanes from the bridge over the Stono River and one outbound lane;
- Providing dedicated left turn lanes at key intersections, in this case, River Road, in order to separate left turning traffic to allow through traffic to proceed more efficiently.
- Providing a new parallel two lane roadway to the north of Maybank Highway beginning at the intersection of Maybank Highway and Fenwick Hall Allee and terminating at a point on River Road. This roadway is referred to as the Northern Pitchfork Road. A new roundabout is proposed on the Northern Pitchfork Road adjacent to the existing Fenwick Hall Allee.
- Providing a new parallel two lane roadway to the south of Maybank Highway beginning at the end of the bridge over the Stono River and terminating at a point on the River Road. This roadway is referred to as the Southern Pitchfork Road.

In addition to the traffic operational analyses, microsimulation modeling was conducted to examine the westbound queuing of Maybank Highway and methods that it could be addressed. Four different sites for a westbound lane drop were examined:

- Existing Condition/Future No Build Condition: Approximately 1,650 feet west of Old Maybank Highway.
- Build Condition: River Road – This would call for widening Maybank Highway to three lanes east of River Road. The scenario was examined both with and without the Pitchfork Roads.
- Merge Option 1: 400 feet west of Fenwick Hall Allee – This would call for widening Maybank Highway to three lanes from the current merge point to 400 feet west of Fenwick Hall Allee. The scenario was examined both with and without the Pitchfork Roads.

- Merge Option 2: Approximately the end of the curve travelling westbound on Maybank Highway after Old Maybank Highway – This would extend the current westbound two-lane section approximately 670 feet further west from its current lane drop location. This scenario was examined without the Pitchfork Roads.

Since the construction completion date of the proposed I-526 extension is uncertain at this moment, the 2040 analyses were performed for two separate scenarios: with and without the I-526 extension.

Existing Condition

The existing peak hour operational analysis results show that the five study intersections currently operate at a variety of levels of service in both the AM and PM peak hours. In the morning, both the signalized River Road intersection and the unsignalized Fenwick Hall Allee operate at LOS E or LOS F. In the afternoon peak hour, only Fenwick Hall Allee operates at LOS F. LOS F on an unsignalized intersection may overstate the actual delay at that intersection, as the model can only measure *likely* gaps based on the volumes carrying through the intersection, while in reality, drivers usually make it into the traffic stream by accepting shorter gaps than the model would take into account, or by opposing drivers providing a gap for the turning driver to use. In any case, a LOS E or F on an unsignalized approach must be treated carefully.

2040 No-Build

Without the I-526 Extension

The 2040 No-Build analysis results show that the operating conditions at all the intersections will deteriorate compared to the existing afternoon peak hour condition if the roadway network within the study area remained unchanged with no improvements implemented. In particular, River Road at Maybank Highway will drop from a LOS C to a LOS E in 2040 without the I-526 extension.

With the I-526 Extension

The 2040 No-Build analysis results show that the operating condition at all the intersections will deteriorate compared to the existing afternoon peak hour condition if the roadway network within the study area remained unchanged with no improvements implemented other than the extension of I-526. With the I-526 extension, all studied intersections will operate at LOS F except for Maybank Highway at Old Maybank which will operate at LOS A. While the existing unsignalized intersection of Fenwick Hall Allee will be LOS F in this scenario, it is improved over the No Build without I-526 Extension.

Of particular note are the delays at the intersection of Maybank Highway and River Road in the "with I-526" condition. The I-526 construction will reroute traffic from Maybank Highway east of River Road to I-526, but traffic will still access Johns Island by moving south on River Road and turning right onto Maybank Highway. Large delays will be caused by the queuing for this movement. Similarly, because of the connections between I-526 and River Road, traffic along

Maybank Highway Traffic Analysis Report

River Road will increase with the I-526 extension, reducing gaps in River Road traffic and increasing delay to the traffic on the Stardust Way and Cane Slash Road approaches.

2040 Build Concept

Build Without the I-526 Extension

The 2040 Build results without the I-526 extension show that the operating conditions at Maybank Highway and River Road will improve to LOS B. The operating condition at all other currently existing intersections will remain as-is or improve except for Cane Slash Road. This unsignalized intersection will deteriorate to LOS E. While this is a failing LOS, the volumes accessing this two-way-stop controlled intersection are low and do not affect the network as a whole.

Four additional traffic signals will likely be needed to control traffic for this condition. Two signals along Maybank Highway at the Northern Pitchfork Road and Southern Pitchfork Road intersections and the other two signals will likely be required along River Road at the Northern Pitchfork Road and the Southern Pitchfork Road intersections. All the signalized study intersections will operate at an acceptable LOS D or better with the exception of Maybank Highway at Northern Pitchfork Road, which with the projected traffic will operate at LOS F due to the volume of left-turning vehicles projected to use Northern Pitchfork Road to access Maybank Highway instead of using the Maybank Highway/River Road intersection.

Build With the I-526 Extension

The 2040 Build results with I-526 extension show that the operating conditions at the existing signalized intersections at Maybank Highway and River Road will improve compared to 2040 No-Build with I-526. Maybank Highway at River Road will remain a failing LOS E compared to the No Build LOS F due to the traffic being diverted away from Maybank Highway to River Road via the I-526 extension connectors and the Pitchfork Roadways, however the average vehicular delay will fall by 81 seconds.

Two additional traffic signals are will likely be needed to control traffic. Traffic signals will likely be needed at the Northern Pitchfork Road intersections with Maybank Highway and River Road. Both these intersections will operate at LOS B or A under signal control.

Build (Without Pitchfork) Without the I-526 Extension

The 2040 Build without Pitchfork results without the I-526 extension show that the operating conditions at the existing two signalized intersections along Maybank Highway remain constant compared to the 2040 No-Build. To show the differences between the 2040 No Build and the 2040 Build (without pitchfork), further analysis was conducted using microsimulation and documented later in this report.

Build (Without Pitchfork) With the I-526 Extension

The 2040 Build without Pitchfork results with I-526 extension show that the operating conditions at the existing signalized intersections at Maybank Highway and River Road will remain at LOS F. The traffic that uses Maybank Highway in the Without I-526 scenario is rerouted to River

Maybank Highway Traffic Analysis Report

Road and still causes this intersection to be over capacity. All other intersections remain the same as the No Build condition.

Addressing the Westbound Queuing

The results of the microsimulation modeling show the Build condition reduce the queue significantly either entirely, or to about halfway between River Road and Fenwick Hall Allee, depending on which measure of effectiveness you are evaluating (Average or Visual, respectively). The Build without Pitchfork will reduce the queuing to approximately just past Fenwick Hall Allee.

In the case where I-526 was constructed, sufficient traffic would be diverted from the westbound Maybank Highway approach to River Road to make the queuing situation moot.

SUMMARY OF FINDINGS

It was found that, in comparing the 2040 No-Build and Build results:

- The Build condition (without I-526) will improve all existing signalized intersections.
- The Build condition (without I-526) will significantly improve the westbound queuing.
- The Build without Pitchfork Roads (without I-526) will also reduce westbound queues, with the intersection traffic operations remaining similar to, if slightly better, than the No-Build Condition.
- In reviewing the Build scenario at the signalized intersection of the Northern Pitchfork Road (Fenwick Hall Allee) and Maybank Highway it is noted that the intersection will operate at LOS F without the construction of I-526. This is due to the volume of traffic projected to use this intersection after the Pitchfork Roads are constructed.
- The microsimulation queuing analysis demonstrates that of the locations for a westbound drop lane, the condition with the best improvements is Build, dropping the lane at River Road. Second best is Build without Pitchfork Roads.
- The analysis shows that constructing the Build condition would greatly increase the capacity of the immediate vicinity by presenting alternate routes to access River Road and reducing the queuing on Maybank Highway.

EXHIBIT B

[ORDINANCE NO. 2018-164 (AMENDED GUIDELINES)]


 Ratification
 Number 2018-164

AN ORDINANCE

TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON, BY AMENDING ORDINANCE NO. 2016-005, ESTABLISHING THE VILLAGE AT FENWICK PLANNED UNIT DEVELOPMENT GUIDELINES, SO THAT PROPERTY OWNED BY 1776, LLC, LOCATED ON JOHNS ISLAND, IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA, CONSISTING OF (1) APPROXIMATELY 12.645 ACRES ON RIVER ROAD (TMS NO. 346-00-00-004); (2) APPROXIMATELY 22.91 ACRES ON RIVER ROAD AND MAYBANK HIGHWAY (TMS NO. 346-00-00-076); (3) APPROXIMATELY 4.947 ACRES (A PORTION OF TMS NO. 346-00-00-258); AND (4) APPROXIMATELY 4.389 ACRES (A PORTION OF TMS NO. 346-00-00-259) (COUNCIL DISTRICT 5) BE SUBJECT TO THE AMENDED AND RESTATED PLANNED UNIT DEVELOPMENT GUIDELINES FOR THE VILLAGE AT FENWICK.

BE IT ORDERED AND ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

WHEREAS, on January 12, 2016, City Council adopted Ordinance No. 2016-005, rezoning the above-referenced properties (collectively, the "Property") and others to Planned Unit Development (PUD) classification and adopting The Village at Fenwick Planned Unit Development Guidelines (the "Guidelines") as the development plan for the Property;

WHEREAS, the planned "Northern Pitchfork Road," expected to significantly relieve traffic congestion on Johns Island, will lie within the boundaries of the properties subject to the Guidelines, with a majority of the North Pitchfork Road and its supporting facilities, including but not limited to drainage facilities, lying within the boundaries of the Property;

WHEREAS, 1776, LLC, the owner of the Property ("Owner"), has agreed to donate fee simple title to the portions of the Property necessary to construct the North Pitchfork Road and supporting facilities to the City; and

WHEREAS, the Owner's donation has resulted in changed conditions with respect to the planned development of the Property under the Guidelines, and City Council finds it necessary to amend the Guidelines to take into account these changed conditions.

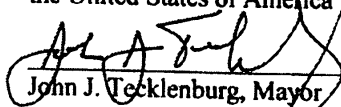
Section 1. City Council hereby amends Ordinance No. 2016-005 by substituting the Amended and Restated Planned Development Guidelines for the Village at Fenwick (the "Amended

Guidelines”), a copy of which is attached hereto and incorporated herein by reference as Exhibit 1, for the Guidelines as the development plan for the Property only.

Section 2. The Property is more particularly described on Exhibit 2, attached hereto and incorporated herein by reference.

Section 3. This Ordinance shall become effective upon ratification, such that the Amended Guidelines shall be vested upon ratification; provided, however, the Guidelines shall govern the development of the Property through January 12, 2019, after which the Amended Guidelines shall govern the development of the Property.

Ratified in City Council this 18th day of
December in the Year of Our Lord, 2018,
and in the 243rd Year of the Independence of
the United States of America


John J. Tecklenburg, Mayor

ATTEST:

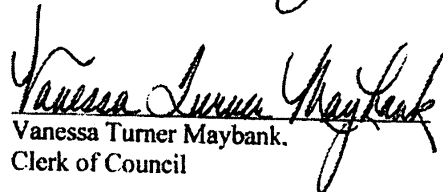

Vanessa Turner Maybank,
Clerk of Council

EXHIBIT 1

[AMENDED GUIDELINES]

AMENDED AND RESTATED PLANNED UNIT DEVELOPMENT GUIDELINES

The Village at Fenwick

Charleston, South Carolina

ID# 150928-RiverRd-1

[NEW DATE]



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PLANNED UNIT DEVELOPMENT

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**MASTER PLAN REQUIREMENTS
CITY OF CHARLESTON**

RELATIONSHIP TO THE CITY OF CHARLESTON ZONING ORDINANCE

This Amended and Restated Development Guidelines and Land Use Plan for the Village at Fenwick Planned Unit Development (hereinafter "PUD") supersedes and replaces the original Development Guidelines and Land Use Plan for the Village at Fenwick Planned Unit Development. The PUD, as amended and restated herein and attached hereto and made a part hereof, is part of the PUD conditional use Master Plan application submitted in accordance with the Zoning Ordinance of the City of Charleston, Article 2, Part 7 Sections 54-250, et seq. The Zoning Ordinance of the City of Charleston is incorporated herein by reference, except as amended herein.

No person shall erect or alter any building, structure, or sign on any tract of land or use any tract of land within the Village at Fenwick PUD except in conformance with these guidelines and regulations. Unless modified herein, definitions of terms used in the Village at Fenwick PUD Development Guidelines shall follow definitions listed in the Zoning Ordinance of the City of Charleston, as amended from time to time. Administration and enforcement of the adopted Village at Fenwick PUD Master Plan shall follow Article 9 of the Zoning Ordinance of the City of Charleston.

The amended and restated Village at Fenwick PUD Master Plan was approved by the City of Charleston on

_____, Ordinance Number _____.

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I. Statement of Purpose, Intent, Objectives

This Planned Unit Development is intended to meet the criteria listed in Section 54-254 in the City of Charleston zoning code. The PUD allows flexibility in neighborhood design to create an urban node for Johns Island while providing open space, protecting the site's grand trees, and being sensitive to the context of Johns Island. This document is consistent with the City's adopted comprehensive plan, the Century V Plan, the Johns Island Community Plan, and the Johns Island Community Greenway Plan.

By creating additional open space including a linear park, that runs parallel to Maybank Highway, and a leisure trail system, this development better achieves the goals of adopted plans or other zoning district regulations. A linear park within the conservation buffer area along Maybank Highway will incorporate a leisure trail, seating, ornamental plantings, and a historical design feature that will illustrate the history of Johns Island. A leisure trail system will wind through the entire development, creating an emphasis on pedestrian connectivity, and downplaying the role of the automobile.

This development is also consistent with the City's adopted master road plan. By committing to design the development around existing grand trees, allowing pervious road types, generating ample open space, and respecting the adjacent Fenwick Hall through buffering and architectural regulations, this PUD will protect and preserve natural and cultural resources better than standard zoning district regulations. The planned development aims to celebrate the natural characteristic of the Johns Island gateway while transitioning to the future "Four Corners" intersection at Maybank Highway and River Road.

Further, this planned development has been coded for compatibility with density and building height restrictions according to the City's vision for the location, as set forth by the Comprehensive Plan and Century V Plan. The planned development will be congruent with the density and maximum building height of the adjacent multistory apartments. To encourage a variety of roof lines through the PUD development, building heights shall be defined as number of stories. It is also compatible with the existing network of public streets and the proposed Pitchfork Road that is planned to go through the property. Additionally, this development is accommodated by existing and planned public facilities including roads, sewer, water, schools, parks, open space and recreational amenities. Coordination letters are included within this document. Finally, the POA will adequately provide for the continued maintenance of common areas, open space, and other public facilities not dedicated to the City of Charleston.

Upon City approval, these Planned Unit Development Guidelines shall apply to the entire 58.88 acres of this tract. Any zoning details not outlined in these guidelines will adhere to the current City of Charleston zoning guidelines and will default to the GB or DR-9 land use regulations, based on the parcels' zoning prior to this PUD. A Conceptual Land Use Plan and Conceptual Open Space Plan have been included within the appendices of this report.

This PUD is a zoning document only and does not include a Concept Plan component. Drainage, Utility and Fire Protection Plans meeting the City's requirements shall be provided with the future required Concept Plan submittal.

The Village at Fenwick PUD property includes a vehicular spur of the Pitchfork Traffic Plan set forth by the City of Charleston, with the goal of dispersing traffic, while creating walkable streets with on-street parking, to ultimately create a gathering place for Johns Island.

The vision of the Pitchfork Traffic Plan is to create a Johns Island inspired village center that is respectful of the grand live oaks and surrounding natural character of Johns Island. The goal of this PUD is to provide flexible zoning regulations in order to create a dense, walkable mixed-use gathering place along Maybank Highway and the Pitchfork spur that is sensitive to its surrounding landscape and history.

II. City Land Use & Zoning Designations

A. Century V Plan Recommendations:

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According to the City of Charleston's Century V Plan, this site's recommended future Land Use designations are Urban, Neighborhood Center, Conservation, and Suburban.

<u>Future Land Use</u>	<u>Acreage</u>	<u>Allowable Density*</u>	<u>Allowable Units</u>
Urban	9.52 AC upland	12 DU/AC	114
Neighborhood Center	35.51 AC upland	20 DU/AC	710
Conserved/Natural Area*	3.31 AC upland 6.23 AC wetland	0 DU/AC	0
Suburban	4.31 AC upland	8 DU/AC	34
TOTAL	52.65 AC upland 6.23 AC wetland	16.29 DU/AC	858

* Density calculated using upland acreage.

B. Current Base Zoning and Site Tabulation:

The Village at Fenwick PUD property, totaling 58.88 acres, is comprised of TMS numbered 346-00-00-004, TMS 346-00-00-076, TMS 346-00-00-260, 346-00-00-008, a portion of 346-00-00-258, a portion of 346-00-00-259, and TMS 346-00-00-301 as found on the tax maps included in the appendices of this report. The properties are zoned GB, GO, C, and DR-9 in the City of Charleston. The Village at Fenwick PUD property is surrounded by a mix of properties with zoning designations of RR-1, DR-1, GB, PUD and GO.

Existing TMS Acreage Chart:

<u>TMS #</u>	<u>Existing ACREAGE</u>	<u>Existing Zoning(s)</u>
346-00-00-004	12.64 AC	DR-9
346-00-00-076	22.93 AC	GB, GO, C
346-00-00-260	12.25 AC	DR-9
346-00-00-258*	4.82 AC	GO
346-00-00-259*	4.38 AC	GO, C
346-00-00-008	0.55 AC	GB
346-00-00-301	1.31 AC	C
TOTAL	58.88 AC	

* Portion of total parcel acreage

DR-9 – Diverse Residential; GB – General Business; GO – General Office; C – Conservation

Existing Zoning Chart:

<u>Ex. Zoning</u>	<u>Total Acreage</u>	<u>Density</u>	<u>Dwelling Units</u>

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DR-9	24.89 AC	9.0 units/AC	224 units
GB	14.81 AC	26.4 units/AC	385 units
GO	16.19 AC	--	--
C	3.19 AC	--	--
TOTAL	58.88 AC		609 units

III. PUD Land Uses and Development Regulations

A. Land Uses

The proposed development will contain residential, commercial, civic and open space land uses in a horizontal or vertical mixed use format. The PUD will categorize the intensity of development into two designations; Village at Fenwick Mixed Use Residential (VFMR) and Village at Fenwick Mixed Use Commercial (VFMC). In order to preserve the Maybank Highway natural corridor, the PUD will also consider Conservation (C) as part of the development regulation.

1. Site Tabulation:

LAND USE	TOTAL	Projected WETLAND	Projected HIGH	Existing Pond	Maximum D.U.*	Maximum NET DENSITY
VFMR**	27.30 Ac.	1.11 Ac.	26.19 Ac.		216	9.00 D.U./Upland Ac.
VFMC**	27.51 Ac.	5.12 Ac.	22.39 Ac.	0.55 Ac.	393	17.55 D.U./Upland Ac.
C**	4.07 Ac.	0.00 Ac.	4.07 Ac.		N/A	N/A
TOTAL	58.88 Ac.	6.23 Ac.	52.65 Ac.	0.55 Ac.	609	11.57 D.U./Upland Ac.

*Accessory dwelling units shall not count toward allowable density limit (see III, A, 2 for definition)

**See VII for Open Space Requirements

Notwithstanding the foregoing Site Tabulation, for any PUD parcel that is reduced in size because a portion of such parcel is conveyed for the Pitchfork Road, such PUD parcel or parcels shall each be credited with additional D.U. for the acreage conveyed. Based on the current engineered Pitchfork Road and related drainage system plans, the Maximum Net Density per Upland Acre specified in the Site Tabulation, above, for the parcels that are reduced in size shall be increased by the following D.U.:

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Parcel	Proposed Acreage Conveyed		Initial Maximum Net Density		Additional D.U. on Remaining High Acres
12.64 VFMR Parcel	0.877	X	9.00	=	7.893
12.25 VFMR Parcel	0.044	X	9.00	=	0.396
22.93 VFMC Parcel	3.541	X	17.55	=	62.144

2. **Village at Fenwick Mixed Use Residential (VFMR) designated area(s)** will allow primarily residential and limited commercial and mixed use. The following uses shall be permitted:

1. Single-family detached dwelling (SFD)
2. Two-family dwellings
3. Single-family attached dwellings
4. Nursing homes
5. Accessory Dwelling Units (ADU). Accessory Dwelling Unit shall be defined as for a secondary house or apartment with its own kitchen, living area and separate entrance that shares the building lot of a larger, primary house. The ADU may be attached to an existing house or garage, or it may be built as a stand-alone unit, but it usually uses the water and energy connections of the primary house and may be rented separately.
6. Detached accessory buildings for Office Space for Home Occupations
7. Live Work Units
8. Neighborhood commercial as defined in the City of Charleston CT zoning designation, except that commercial hours of operation shall be limited to 7 a.m. to 8 p.m.
9. Gazebos, shelters, play equipment, and other site furnishings shall be allowed in open spaces falling outside of wetlands and buffer areas.
10. Model homes, sales centers, and associated uses shall be allowed in all areas.
11. Parks, trails, open space, etc.

3. **Village at Fenwick Mixed Use Commercial (VFMC) designated area(s)** will allow moderate intensity mixed use, residential, and commercial. The following uses shall be permitted:

1. Uses permitted in the GB district, except that commercial hours of operation shall be limited to 7 a.m. to 12 a.m.
2. Hotel, Motel, or Bed and Breakfast
3. Multi-family / Apartment
4. Uses permitted in the VFMR

Note: VFMC areas will be under purview of the Design Review Board (DRB).

B. Development Regulations

All lots must conform to dimensional, density, and zoning requirements as found in the following chart:

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	VFMR	VFMC
Min. Front Yd. Setback (ft.)*	5	0
Min. Side Yard Setback (ft.) from Property**	5	5
Min. Rear Yard Setback (ft.) from Property***	10	0
Min. Street Side Yard Setback (ft.) from Property Line	10	10
Build to Zone at Right of Ways *	5' – 15'	0'-10'
Accessory Building front setback toward rear from primary façade	10'	10'
Accessory Building side and rear setback	3'	3'
Maximum Ht.	3 stories	4 stories
Building Coverage (Max. %)		
Commercial & MF	100%	100%
Single Family Attached	80%	85%
Single Family Detached	90%	95%
Minimum Lot Area (square feet)		
Commercial	None	None
Single Family Attached	1280	None
Single Family Detached	2500	None
Minimum Building Frontage along Right of Ways	None	65%.

* Setbacks and build-to lines shall be measured from the Right of Way line or innermost easement line. Flexibility for trees may be granted.

**Unless common wall construction

***Modified setbacks apply to properties adjacent to Fenwick. See Buffers in Section 4.

1. Development standards for Village at Fenwick Mixed-Use Residential (VFMR)

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- a) Architectural design must address and respond to the architectural elements present in Fenwick and must address the Fenwick side entry drive. This shall be enforced by the Architectural Review Board (ARB).
 - b) A maximum of 50 accessory dwelling units (ADUs) shall be allowed, with the number per lot not to exceed 1 ADU. ADUs shall not count toward the allowable density calculation. ADUs shall be limited to 800 s.f of habitable area, excluding garage space. See section III, A, 2 for ADU definition. ADU approval and monitoring shall be the responsibility of the future Village at Fenwick DRB.
 - c) Compact lots will be encouraged.
 - d) The minimum lot frontage for lots with vehicular access to an alley may be 15'. This will allow flexibility for unique lot configurations to work around existing trees and common spaces.
 - e) The maximum block size will be 800' x 800'. Blocks size shall be defined as the distance between Right of Ways, primary vehicular drives with angled or parallel parking, and / or Pedestrian Access Easements with leisure trails. Perimeter lots (lots with property lines on the PUD boundary) will be excluded from this requirement.
 - f) Only 25% of the total lots on each street may have front loaded attached garages.
- 2. Development standards for Village at Fenwick Mixed-Use Commercial (VPMC)**
- a) Drive-thru lanes shall be permitted but should be oriented away from the nearest existing ROW.
 - b) There shall be no lot size requirements.
 - c) Corner lots shall meet City of Charleston vision clearance triangle requirements.
 - d) Steps, open stairways, open porches, eaves, roof awnings and decks may extend up to 5' into street front setback, but in no instance can they extend into the right of way.
 - e) Individual commercial building footprints shall be limited to 30,000 square ft. max. footprint area.
 - f) Block Size shall be a maximum of 600' x 600'. Blocks size shall be defined as the distance between Right of Ways, primary vehicular drives with parking, and / or Pedestrian Access Easements with leisure trails.
 - g) Building Frontage shall be defined as the width of a building along a street, including parallel walls or fences, but excluding roof overhang and canopies, and any ornamental features that cause a protrusion from the walls of the building. Building frontage shall be measured as the combined width of the building faces that front the street and lie within setback limits or build to zones. When the width of the building varies vertically, building frontage shall be measured at ground level.
 - h) Build-to Zone shall be defined as an area of a lot designated for placement of a building façade along a street, located parallel to a front property line. The Build-to Zone defines an area in which the locations of building fronts can vary within a specified range. Grand Tree Drip Zones and formal Open Spaces may be excluded from frontage calculations.
- 3. Off-Street Parking**
- a) The proposed development shall refer to the Peninsula parking requirements outlined in the City of Charleston zoning ordinance and will be held to the "on peninsula" parking quantities.
 - b) Platted private drives may be unpaved and include a minimum 20' long paved apron at street connections and paved areas to meet ADA compliance. Unpaved drives must be reviewed and approved by City of Charleston Staff.
 - c) For any single-family and private properties, all driveways may be unpaved.
 - d) Two way parking drive isles may be 22' and parking space dimensions may be 9'x18'. If no vehicle overhang is provided, parking spaces shall be the standard 9'x18.5'.

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- e) Multi-level Parking Garages shall not be allowed.
- f) Parking areas and private drive isles may be paved, gravel, sand shell or of another pervious material.
- g) There shall be no parking between building fronts and Right of Ways in the VFMC areas.

See Appendix H for the City of Charleston Lower Peninsula Parking Standards.

4. Buffers

- a) Interior buffers between internal uses shall not be required.
- b) Wetland buffers may be required by the Army Corps of Engineers or SCDHEC Coastal Zone Consistency and shall be provided per their requirements.
- c) Wetland buffers will be outside of platted lots and will be owned and maintained by the Property Owner's Association (POA).
- d) Wetland buffers shall be per U.S. Army Corps of Engineers or SCDHEC Coastal Zone Consistency requirements. These buffer requirements supersede any City of Charleston requirements. Paved or non-paved walking trails, 5' wide or less will be allowed within the wetland buffers subject to U.S. Army Corps of Engineers' or SCDHEC Coastal Zone Consistency approval. If paths are not permitted by U.S. Army Corps of Engineers, Open Space may be required elsewhere such that the minimum requirement is met.
- e) A required, Type F, 50' buffer will be provided along Maybank Highway and will be maintained by the POA. This buffer will maintain required plant materials or may remain undisturbed. A portion of the proposed Linear Park will be located within and adjacent and run parallel to the Maybank Highway buffer. The Type F, 50' buffer may be reduced to no less than 36' in areas in which the widening of Maybank Highway has encroached into the proposed buffer area.
- f) Buffers and modified setbacks will be required along the Fenwick Allee and Rear property line. See Appendixes for buffer exhibits. Buffers will be within POA easements and will be maintained by the POA. Within the buffers, supplemental plantings may be allowed, otherwise buffers are to be left undisturbed. A masonry wall (or other wall or fence type screening element, as approved by the City of Charleston, SHPO, and any other applicable regulatory body) will be allowed in the buffer along with opportunities for plant screening. The approval of the owner of Fenwick Plantation will also be required to change or modify the type of buffer required along Fenwick Hall Plantation as set forth in appendix F.
- g) Supplementary to the Fenwick buffers, houses will be required to be subtle neutral tones, to minimize visual impact to the plantation. Color swatches shall be submitted for review and approval to the future Village at Fenwick ARB.
- h) Buffers are shown on the Open Space Plan and in the appendices of this document. With the exception of wetland buffers, no other buffers other than those indicated on the open space plan and described here within shall be required.

IV. Surveys

Plats and a Preliminary Wetland Survey have been included in the appendixes of this document. Tree surveys and wetland surveys will be required prior to any future Concept Plan or Preliminary Plat submittal.

V. Traffic Study

A traffic study has been previously completed for Pitchfork Road improvements and can be found on file with the City of Charleston. An executive Summary has been included in the appendix K of this document. A Time Travel Analysis was prepared for Charleston County and concluded that the

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construction of the Pitchfork Road will save approximately 3 minutes of travel time for vehicles on Maybank Highway. The report, without exhibits, has been attached as appendix L. The complete Travel Time Analysis, inclusive of exhibits, is on file with the City of Charleston.

VI. Streets, Sidewalks, and Trails

- A. Streets within the Village at Fenwick PUD shall allow Neighborhood District street classifications and right of way design standards (Sections 54-820, - 821[a,d,h,i,m,n,u,p,q,r,s,t,u], -822,-823 of the City of Charleston Zoning Ordinance) as well as the new street sections found in Appendix G. Also, the developer may present modified versions of these street sections to be reviewed and approved through the TRC and Concept Plan process.
- B. Unpaved private streets, such as gravel, sand shell, or plantation mix shall be allowed if approved by City of Charleston Staff. Should an unpaved private road be desired, a street section shall be submitted to the City of Charleston Staff for review and approval. A parallel sidewalk or trail along unpaved streets may be allowed to satisfy ADA accessibility.
- C. Streets, public or private, may be studied with digitally simulated emergency and service vehicle modeling to ensure proper service and access. Exhibits shall be provided to city of Charleston as requested by City Staff.
- D. Sidewalks, parks, playgrounds, trails, pier/docks, pedestrian bridges, bicycle paths and any non-paved streets or roads that don't have sidewalks shall be ADA Compliant or maintain a proper ADA route throughout the development.
- E. Should public streets be used they will be paved and designed per City of Charleston standards and maintained by the City of Charleston if accepted. However, curb may be omitted to allow for bio-swales and other low impact development practices, pending review and acceptance by the City of Charleston staff.
- F. No new driveway or street connection to Maybank Highway shall be permitted from the planned development except for the planned 'Pitchfork Road', subject to the approval of the City of Charleston. No new street or driveway connections from the planned development to River Road shall be permitted except for the planned 'Pitchfork Road' connection. The existing vehicular connection from TMS 346-00-00-008 to Maybank Highway may remain. Approval of this PUD shall remove and replace the language found in restrictive covenant #4 pertaining to parcel 346-00-00-076 found in (Bk Y166, Pg 522; Bk V142, Pg 434) with the language found in this paragraph. See Appendix E for Restrictive Covenants. Vehicular connections to the Village at Fenwick shall be provided along the new Pitchfork Road. There shall be no more than one (1) curb cut in each side of the Pitchfork Road per every five hundred (500') feet of roadway unless otherwise agreed to, in writing, by the Zoning Administrator for the City of Charleston, who may require the approval of the City Traffic and Transportation Department and the property owners representing the majority of the PUD acreage.
- G. Due to significant tree resources, and an anticipated light imprint approach, cul-de-sac and hammerhead turn-arounds shall be allowed.
- H. Gated streets shall not be permitted.
- I. Pervious pavers, if approved by the City of Charleston Public Services Department, may be utilized in Public or Private Right-of-Ways (ROWs) where streets or sidewalks encroach into grand tree drip zones. Non-standard materials will require DRC approval.
- J. Temporary Right of Way cul-de-sac and / or temporary private cul-de-sacs shall be a minimum of 96' diameter measured at the ROW or easement line.
- K. The neighborhood will provide a continuous connected leisure trail system linking units and common space areas. Leisure trails shall be a minimum of 5' in width (see open space section), composed of concrete asphalt, pavers, or pervious material, and must meet ADA requirements. The leisure trail will connect useable park spaces where practical. The Open Space plan layout of the leisure trail is highly conceptual and will be subject to modification due to final site layouts. Leisure trails will be allowed to replace required sidewalks, such that pedestrian connectivity and ADA accessibility is maintained throughout the design. All walks outside of the ROW will be maintained by the POA. The requirement for trail and / or sidewalk shall not be dependent on Street Type.

- L. The minimum sight triangle for stop conditions at street intersections shall follow SCDOT ARMS manual standards.
- M. Lights shall not be required on private streets to minimize environmental impacts.
- N. Staff may approve reducing or eliminating Sidewalks within ROWs due to grand or significant tree conflicts, such that a proper ADA route is maintained.
- O. Prior to the construction/completion of the Northern Pitchfork Road, to further the development of the VFMC designated parcels in excess of five (5) acres, the City of Charleston will cooperate with such property owner with respect to the issuance of a disturbance permit the construction of improvements, so long as the application complies with applicable land development regulations. The City of Charleston will also cooperate with such property owner to permit the western end of the entrance island on Fenwick Allee to be temporarily removed so that access can be obtained to the 22.92 acre parcel in the location shown on the Open Space Plan, provided the entrance island is restored to its pre-existing condition prior to or upon the completion of construction on such parcel.

VII. Drainage

- A. All drainage design should be in accordance to the City of Charleston Stormwater Design Standard Manual except that swales may be utilized on private drives and may vary from the Stormwater Manual regulations in order to accommodate light imprint practices. Swales will be maintained by the POA. Also, to facilitate the vision and objectives of this PUD to preserve the natural characteristics of historic Fenwick Hall and its surroundings and to protect grand live oaks, consideration should be given to preserving the existing topography of the PUD parcels to the extent practicable by utilizing engineered drainage systems where possible to minimize the use of fill for drainage purposes. Any proposed deviations from the Stormwater Design Manual will be coordinated through and require approval by City Staff.
- B. Streets within private ROWs and parking and drainage systems within private commercial areas shall be maintained by the POA. The city of Charleston shall maintain storm drainage systems that convey runoff from Public Land or Public Rights of Way.
- C. The site drainage system must meet all applicable State, and Federal storm water regulations. The proposed public roadway construction must comply with the requirements of the City's Zoning Ordinance Section 54-821, Table 8.1 or Table 8-2.1 (Neighborhood District), or be per the roadway standards or sections included within or referenced by this document.

VIII. Signs

- A. One master sign may occur on Maybank Highway immediately west of Fenwick Hall Allee and be subject to permitting. One master sign may occur at the connection to River Road and be subject to permitting. Master sign heights shall be limited to no more than 10' in height above proposed grades and no more than 40 square feet of sign face per side. No backlit signs are allowed along Maybank Highway and River Road. The master entrance subdivision signs will be designed according to Article 4 of the City of Charleston zoning ordinance and may occur within buffers.
- B. A single secondary entrance sign per tract may be constructed at connection points to the Pitchfork Road or adjacent properties. Secondary entrance signs will be a maximum of 5' high with a maximum of 20s.f. of sign face per side.
- C. All signs and associated landscaping will be maintained by the POA. All master signage will be submitted for site plan and encroachment permit review. All other signs will be in accordance with the City of Charleston standards.
- D. There will be directional and traffic signage located throughout the development.

IX. Amenity Areas and Open Space

- A. Required Open Space Chart:

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	<u>OVERALL OPEN SPACE* (20% of Site)</u>	<u>USEABLE OPEN SPACE* (25% of Overall Open Space)</u>
Minimum	11.78 Min.	2.95 Ac.
Projected	17.13 Ac.	5.01 Ac.

B. Open Space Definitions and Requirements:

1. Open space is calculated as 20% of the gross acreage. The proposed Open Space Plan meets or exceeds the required open space.
2. Usable open space is calculated as 25% of the required open space. The proposed Open Space Plan meets or exceeds the required usable open space.
3. Useable open space improvements must be shown on Construction Documents and installed prior to final plat.
4. The size and location of open space and useable open space shown within the Open Space Plan included in this document are subject to adjustment; however, these spaces will remain in excess of the required minimums.
5. Open space definitions are as follows:

Open Space. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space shall not include streets, drives, off-street parking and loading areas, area so located or of such size or shape to have no substantial aesthetic or recreational value and any area within residential lots.

Useable Open Space. Open space areas of high ground developed to provide for active recreational uses. Examples of possible types of usable open spaces could include paths, play fields, benches, walking trails, picnic areas and ponds with seating areas.
6. A connected system of open space leisure trails, playfields or community gardens, and a linear park along Maybank Highway will be provided as useable open space. All trails, walkways and paths shall be ADA Compliant.
 - a) **Linear Park:** The linear park will be located parallel to the Maybank Highway buffer, will count towards the useable open space requirement, and will include a 5' min leisure trail, benches or other seating opportunities, art, or an educational element that illustrates the history of Johns Island and Fenwick. The linear park may also include a wall, wooden decorative fence, or water feature. The linear park will be owned and maintained by the POA but, will be open to the public.
 - b) **Leisure Trails:** Leisure trails will be allowed to wind through buffers, between lots, or along ROWs to connect the site through a pedestrian network. The leisure trails will be a minimum of 5' wide, located within open space easements that are maintained by the POA, and easement areas may count toward the useable open space requirements. Leisure trail areas may include benches, swings, or seating areas. This network is conceptually shown on the open space plan in the appendices of this document, though actual routing is subject to final neighborhood design.

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- c) **Community Garden or Play Fields:** A 1.37 acre community garden, playfield, or combination thereof will be improved below the SCE&G power line easement adjacent to the linear park. The open space area will include leisure trails that link to the overall trail system. The design of this area will be subject to SCEG approvals.

See Appendix D for Conceptual Open Space Plan.

X. Tree Summary

A. Existing Trees

1. The site is currently heavily wooded with a high concentration of grand live oaks. The vision of this project is to create a highly sensitive site plan effort that creates a meaningful gathering place and urban node that is respectful to the grand trees and natural surroundings.
2. A licensed independent arborist will be consulted to inspect the conditions and grade rating of existing grand trees. Every effort will be made to preserve A and B rated grand trees while other quality significant trees will be carefully evaluated and considered, while balancing the goal of creating a node for Johns Island.
3. Existing grand trees and their drip zones near the allée of oaks leading to Fenwick Hall and the Fenwick Hall property shall have proper and specific attention through construction and future planning as to avoid disrupting the natural aesthetic of the site.
4. Tree surveys will be provided prior to conceptual plan submittal.
5. All grand and protected trees shall be governed by Part 6 of the City of Charleston's Tree Protection Ordinance. Should the removal of a grand tree be deemed necessary, the Board of Zoning Appeals process shall be utilized.

B. Street Trees

1. Canopy Street trees will be required in the Public or Private right of way. Street trees will not count towards tree mitigation for tree variances. A Street Tree Plan will be required to be submitted for review and approval by the City Parks Department. The Street Tree Plan for the Northern Pitchfork will be the responsibility of the City of Charleston.
2. Existing significant or grand trees with that fall within 12' of a proposed right of way shall count towards the street tree requirement, subject to Parks Department approval.
3. Due to the high amount of anticipated significant and grand trees, City staff shall have the right to grant flexibility on size, species, spacing and location of required street trees in order to minimize the impact to existing trees.
4. Native tree species are encouraged to preserve the existing natural characteristic throughout the site.

XI. Additional Development Criteria

Sales and/or construction trailers and associated parking areas are allowed on POA areas or designated lots prior to the recording of plats. Site plan review and issuance of clearing and grading permits are required prior to the issuance of the required building permit.

In all cases where sidewalks, tree plantings, or mitigation plantings are required prior to the approval of a final plat for the property, sidewalks and tree mitigation shall be installed, inspected and deemed acceptable by the City. Sidewalks and tree plantings shall be contingent upon approval of encroachment permit and construction plans by the City. These items will be submitted for review to Public Services, Engineering and Parks and Recreation Departments.

Water will be served by Saint Johns Water Company

Sewer will be served by Charleston Water Systems for this project.

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Gas will be served by SCE&G.

XII. Subdivision

Commercial and single family lots will be subdivided through subsequent plat submittals. The commercial parcel may be subdivided into multiple lots, provided that the subdivision meets the development criteria set forth in the standards of this PUD. The Village at Fenwick PUD will be a multi-phased development. A phasing plan will be submitted with the Concept Plan submittal and included / adjusted as necessary with subsequent Preliminary Plat submittals. Subdivision may occur off of platted private drives or pedestrian access easements, such that acceptable emergency access is provided.

XIII. Cultural Resources

A cultural resources study for the property was completed in 2001. A copy of the full cultural resources report is on-file with the City of Charleston. A summary of the report can be found within the appendices of this document.

XIV. Appendices

*Planned Development Guidelines
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**APPENDIX A
(ON FILE WITH ZONING
ADMINISTRATOR)**

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**APPENDIX B
(ON FILE WITH ZONING
ADMINISTRATOR)**

*Planned Development Guidelines
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APPENDIX C

**(ON FILE WITH ZONING
ADMINISTRATOR)**

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APPENDIX D
**(ON FILE WITH ZONING
ADMINISTRATOR)**

*Planned Development Guidelines
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APPENDIX E

**(ON FILE WITH ZONING
ADMINISTRATOR)**

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**APPENDIX F
(ON FILE WITH ZONING
ADMINISTRATOR)**

*Planned Development Guidelines
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APPENDIX G

**(ON FILE WITH ZONING
ADMINISTRATOR)**

*Planned Development Guidelines
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**APPENDIX H
(ON FILE WITH ZONING
ADMINISTRATOR)**

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APPENDIX I
**(ON FILE WITH ZONING
ADMINISTRATOR)**

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APPENDIX J

(Full Document on File with City of Charleston)

*Planned Development Guidelines
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APPENDIX K

(Full Document on File with City of Charleston)

*Planned Development Guidelines
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APPENDIX L

(Full Document on File with City of Charleston)

EXHIBIT 2
[PROPERTIES]

LEGAL DESCRIPTION

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "Tract 'B-2' 42.7 Acres," on a plat entitled, "SUBDIVISION OF PROPERTY IN THE NAME OF F-H-P REALTY LOCATED ON JOHNS ISLAND, CHARLESTON COUNTY, S.C.," by Forrest G. Calvert, RLS, dated September 17, 1979, and recorded in the RMC Office for Charleston County, South Carolina (hereinafter the "RMC Office") in Plat Book AO at Page 74, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "FHP Realty Tract 'A' 5.503 Acres" on a plat entitled, "PLAT SHOWING THE ABANDONMENT OF PROPERTY LINES FOR TMS NO. 346-00-00-12 AND TMS NO. 346-00-00-011, AND THE SUBSEQUENT SUBDIVISION OF TMS NO. 346-00-00-007 INTO TRACT 'A' CONTAINING 5.503 ACRES AND TRACT 'B' CONTAINING 7.497 ACRES OWNED BY FHP REALTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," by Hoffman Lester Associates, Inc., dated September 24, 1997, and recorded January 20, 1998, in the aforesaid RMC Office in Plat Book EC at Page 263.

The aforesaid Tract B-2 and Tract A are also more particularly shown on that certain plat entitled, "PLAT SHOWING PROPERTY LINE BETWEEN TMS NO. 346-00-00-004, TRACT B-2 (CONTAINING 42.49 ACRES) AND TMS NO. 346-00-00-007, RESIDUAL TRACT B (CONTAINING 5.50 ACRES) TO FORM TRACT B-2 (CONTAINING 47.99 ACRES), OWNED BY FHP REALTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by Hoffman Lester and Associates, Inc., dated April 7, 2000, and recorded as Exhibit "____" [sic: "C"] to that certain deed of conveyance from FHP Realty Company, a Partnership, to Penny Creek Associates, L.L.C., dated August 7, 2000, and recorded in the RMC Office for Charleston County on August 8, 2000, in Book O-352 at Page 691.

LESS AND EXCEPTING: ALL that certain streets, roads, drives and cul-de-sacs situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being shown and designated as "FENWICK HALL ALLEÉ R/W VARIES" on a plat entitled, "PLAT DEDICATING FENWICK HALL ALLEÉ, VARIABLE RIGHT-OF-WAY (TMS NO 346-00-00-078 TRACT C) TO THE USE OF THE PUBLIC CONTAINING 0.71 ACRES LOCATED IN

THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by Hoffman Lester Associates, Inc., dated August 27, 2001, and recorded November 1, 2001, in the RMC Office for Charleston County, South Carolina in Plat Book EF at Page 157. Said streets, roads, drives and cul-de-sacs butting and bounding, measuring and containing, and having such courses and distances as shown are shown on said plat, it being the intent of this legal description to convey the entire right-of-way. Reference being had to the aforesaid plat for a more full and complete description, being all of the said dimensions, a little more or a little less. Together with an exclusive easement for drainage and maintenance purposes over all drainage easement shown on the said plat.

LESS AND EXCEPTING: ALL that certain streets, roads, drives and cul-de-sacs situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being shown and designated as "EXTENSION OF FENWICK HALL ALLEÉ" on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT C-1 (TMS NO. 346-00-00-077), TRACT B-2-1 (TMS NO. 346-00-00-004), AND TRACT B-2-2 (TMS NO. 346-00-00-076) TO CREATE AN EXTENSION OF FENWICK HALL ALLEÉ (CONTAINING 0.272 ACRES) AND CREATING RESIDUAL TRACT C-1 (TMS NO. 346-00-00-077) CONTAINING 15.454 ACRES, RESIDUAL TRACT B-2-1 (TMS NO. 346-00-00-004) CONTAINING 24.895 ACRES, AND RESIDUAL TRACT B-2-2 (TMS NO. 346-00-00-076) CONTAINING 22.856 ACRES PREPARED FOR PENNY CREEK ASSOCIATES, LLC AND FENWICK TARRAGON APARTMENTS, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by HLA, Inc., dated December 6, 2004, and recorded March 25, 2005, in the RMC Office for Charleston County, South Carolina in Plat Book EH at Page 817. Said streets, roads, drives and cul-de-sacs butting and bounding, measuring and containing, and having such courses and distances as shown are shown on said plat, it being the intent of this legal description to convey the entire right-of-way. Reference being had to the aforesaid plat for a more full and complete description, being all of the said dimensions, a little more or a little less. Together with an exclusive easement for drainage and maintenance purposes over all drainage easement shown on the said plat.

LESS AND EXCEPTING: ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, measuring and containing 12.250 acres as more fully shown and designated as "PROPOSED TRACT B-2-3" on that plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the RMC

Office for Charleston County, South Carolina, said parcel having such location, buttings, boundings, courses and distances as by references to said plat more fully appear.

THE ABOVE REFERENCED PROPERTY IS ALSO KNOWN AS

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as Tract B-2-1, said to contain 11.645 total acres, as shown on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the R.M.C. Office for Charleston County (herein after "R.M.C. Office"); said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

AND

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as Tract B-2-2, said to contain 22.91 acres total, more or less, as shown on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the R.M.C. Office for Charleston County (herein after "R.M.C. Office"); said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

TMS Nos.: 346-00-00-004 and 346-00-00-076

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "LOT 2A The Preserve Fenwick Plantation Owner: 1776, LLC, 215,476 SF, 4.947 AC"; on a plat entitled, "A SUBDIVISION PLAT OF TMS #346-00-00-258 INTO LOT 2 (4.101 AC) AND LOT 2A (4.947 AC) OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" by Seamon Whiteside and Associates Surveying, LLC, dated September 6, 2018, and recorded in the ROD Office for Charleston County, South Carolina in Plat Book

___ at Page ___, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

TMS #346-00-00-258

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "LOT 3 The Preserve Fenwick Plantation TMS 346-00-00-259 Owner: 1776, LLC, 191,188.51 SF, 4.389 AC", on a plat entitled, "A SUBDIVISION PLAT OF TMS #346-00-00-259 INTO LOT 3 (4.389 AC) AND LOT 3A (4.347 AC) OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" by Seamon Whiteside and Associates Surveying, LLC, dated September 8, 2018, and recorded in the ROD Office for Charleston County, South Carolina in Plat Book ___ at Page ___, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

TMS #346-00-00-259

EXHIBIT C

[ORDINANCE NO. 2018-169 (DEVELOPMENT AGREEMENT)]



Ratification
Number 2018-169

AN ORDINANCE

AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY OF CHARLESTON, A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND 1776, LLC GOVERNING THE DEVELOPMENT OF PROPERTIES OWNED BY 1776, LLC, LOCATED ON JOHNS ISLAND, IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA, CONSISTING OF THE FOLLOWING TRACTS: (1) APPROXIMATELY 12.645 ACRES ON RIVER ROAD, DESIGNATED AS TMS NO. 346-00-00-004; (2) APPROXIMATELY 22.91 ACRES ON RIVER ROAD AND MAYBANK HIGHWAY, DESIGNATED AS TMS NO. 346-00-00-076; (3) APPROXIMATELY 4.947 ACRES, BEING A PORTION OF TMS NO. 346-00-00-258; AND (4) APPROXIMATELY 4.389 ACRES, BEING A PORTION OF TMS NO. 346-00-00-259.

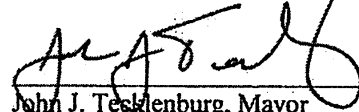
BE IT ORDERED AND ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute on behalf of the City of Charleston (the "City"), and without further action by City Council, the Development Agreement attached hereto and incorporated herein by reference as Exhibit 1, between the City and 1776, LLC, governing the development of properties owned by 1776, LLC, located on Johns Island, in the City of Charleston, Charleston County, South Carolina, consisting of the following tracts: (1) approximately 12.645 acres on River Road, designated as TMS No. 346-00-00-004; (2) approximately 22.91 acres on River Road and Maybank Highway, designated as TMS No. 346-00-00-076; (3) approximately 4.947 acres, being a portion of TMS No. 346-00-00-258; and approximately 4.389 acres, being a portion of TMS No. 346-00-00-259.

Section 2. Pursuant to section 6-31-60(A)(7) and section 6-31-70 of the South Carolina Code, City Council finds that the development permitted or proposed in the Development Agreement is consistent with the City's comprehensive plan and land development regulations.

Section 3. This Ordinance shall become effective upon ratification.

Ratified in City Council this 18th day of
December in the Year of Our Lord, 2018,
and in the 243rd Year of the Independence of
the United States of America


John J. Teskenburg, Mayor

ATTEST:

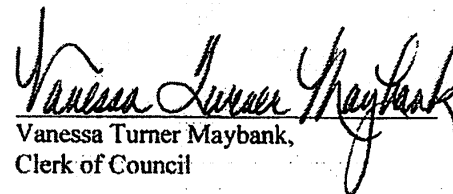

Vanessa Turner Maybank,
Clerk of Council

EXHIBIT D

[LEGAL DESCRIPTION]

LEGAL DESCRIPTION

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "Tract 'B-2' 42.7 Acres," on a plat entitled, "SUBDIVISION OF PROPERTY IN THE NAME OF F-H-P REALTY LOCATED ON JOHNS ISLAND, CHARLESTON COUNTY, S.C.," by Forrest G. Calvert, RLS, dated September 17, 1979, and recorded in the RMC Office for Charleston County, South Carolina (hereinafter the "RMC Office") in Plat Book AO at Page 74, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "FHP Realty Tract 'A' 5.503 Acres" on a plat entitled, "PLAT SHOWING THE ABANDONMENT OF PROPERTY LINES FOR TMS NO. 346-00-00-12 AND TMS NO. 346-00-00-011, AND THE SUBSEQUENT SUBDIVISION OF TMS NO. 346-00-00-007 INTO TRACT 'A' CONTAINING 5.503 ACRES AND TRACT 'B' CONTAINING 7.497 ACRES OWNED BY FHP REALTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," by Hoffman Lester Associates, Inc., dated September 24, 1997, and recorded January 20, 1998, in the aforesaid RMC Office in Plat Book EC at Page 263.

The aforesaid Tract B-2 and Tract A are also more particularly shown on that certain plat entitled, "PLAT SHOWING PROPERTY LINE BETWEEN TMS NO. 346-00-00-004, TRACT B-2 (CONTAINING 42.49 ACRES) AND TMS NO. 346-00-00-007, RESIDUAL TRACT B (CONTAINING 5.50 ACRES) TO FORM TRACT B-2 (CONTAINING 47.99 ACRES), OWNED BY FHP REALTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by Hoffman Lester and Associates, Inc., dated April 7, 2000, and recorded as Exhibit "___" [sic: "C"] to that certain deed of conveyance from FHP Realty Company, a Partnership, to Penny Creek Associates, L.L.C., dated August 7, 2000, and recorded in the RMC Office for Charleston County on August 8, 2000, in Book O-352 at Page 691.

LESS AND EXCEPTING: ALL that certain streets, roads, drives and cul-de-sacs situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being shown and designated as "FENWICK HALL ALLEÉ R/W VARIES" on a plat entitled, "PLAT DEDICATING FENWICK HALL ALLEÉ, VARIABLE RIGHT-OF-WAY (TMS NO 346-00-00-078 TRACT C) TO THE USE OF THE PUBLIC CONTAINING 0.71 ACRES LOCATED IN

THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by Hoffman Lester Associates, Inc., dated August 27, 2001, and recorded November 1, 2001, in the RMC Office for Charleston County, South Carolina in Plat Book EF at Page 157. Said streets, roads, drives and cul-de-sacs butting and bounding, measuring and containing, and having such courses and distances as shown are shown on said plat, it being the intent of this legal description to convey the entire right-of-way. Reference being had to the aforesaid plat for a more full and complete description, being all of the said dimensions, a little more or a little less. Together with an exclusive easement for drainage and maintenance purposes over all drainage easement shown on the said plat.

LESS AND EXCEPTING: ALL that certain streets, roads, drives and cul-de-sacs situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being shown and designated as "EXTENSION OF FENWICK HALL ALLEÉ" on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT C-1 (TMS NO. 346-00-00-077), TRACT B-2-1 (TMS NO. 346-00-00-004), AND TRACT B-2-2 (TMS NO. 346-00-00-076) TO CREATE AN EXTENSION OF FENWICK HALL ALLEÉ (CONTAINING 0.272 ACRES) AND CREATING RESIDUAL TRACT C-1 (TMS NO. 346-00-00-077) CONTAINING 15.454 ACRES, RESIDUAL TRACT B-2-1 (TMS NO. 346-00-00-004) CONTAINING 24.895 ACRES, AND RESIDUAL TRACT B-2-2 (TMS NO. 346-00-00-076) CONTAINING 22.856 ACRES PREPARED FOR PENNY CREEK ASSOCIATES, LLC AND FENWICK TARRAGON APARTMENTS, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA," prepared by HLA, Inc., dated December 6, 2004, and recorded March 25, 2005, in the RMC Office for Charleston County, South Carolina in Plat Book EH at Page 817. Said streets, roads, drives and cul-de-sacs butting and bounding, measuring and containing, and having such courses and distances as shown are shown on said plat, it being the intent of this legal description to convey the entire right-of-way. Reference being had to the aforesaid plat for a more full and complete description, being all of the said dimensions, a little more or a little less. Together with an exclusive easement for drainage and maintenance purposes over all drainage easement shown on the said plat.

LESS AND EXCEPTING: ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, measuring and containing 12.250 acres as more fully shown and designated as "PROPOSED TRACT B-2-3" on that plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the RMC

Office for Charleston County, South Carolina, said parcel having such location, buttings, boundings, courses and distances as by references to said plat more fully appear.

THE ABOVE REFERENCED PROPERTY IS ALSO KNOWN AS

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as **Tract B-2-1**, said to contain 11.645 total acres, as shown on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the R.M.C. Office for Charleston County (herein after "R.M.C. Office"); said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

AND

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as **Tract B-2-2**, said to contain 22.91 acres total, more or less, as shown on a plat entitled, "PLAT SHOWING THE SUBDIVISION OF TRACT B-2-1 TMS NO. 346-00-00-004 CONTAINING 24.895 ACRES INTO TRACT B-2-3 (12.250 ACRES) AND RESIDUAL TRACT B-2-1 (12.645 ACRES) PROPERTY OF PENNY CREEK ASSOCIATES, LLC LOCATED IN THE CITY OF CHARLESTON CHARLESTON COUNTY SOUTH CAROLINA," prepared by HLA INC., dated December 10, 2004, and recorded in Plat Book EH at Page 903, in the R.M.C. Office for Charleston County (herein after "R.M.C. Office"); said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

TMS Nos.: 346-00-00-004 and 346-00-00-076

AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "LOT 2A The Preserve Fenwick Plantation Owner: 1776, LLC, 215,476 SF, 4.947 AC", on a plat entitled, "A SUBDIVISION PLAT OF TMS #346-00-00-258 INTO LOT 2 (4.101 AC) AND LOT 2A (4.947 AC) OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" by Seamon Whiteside and Associates Surveying, LLC, dated September 6, 2018, and recorded in the ROD Office for Charleston County, South Carolina in Plat Book

LM at Page ~~24~~²⁴, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

TMS #346-00-00-258

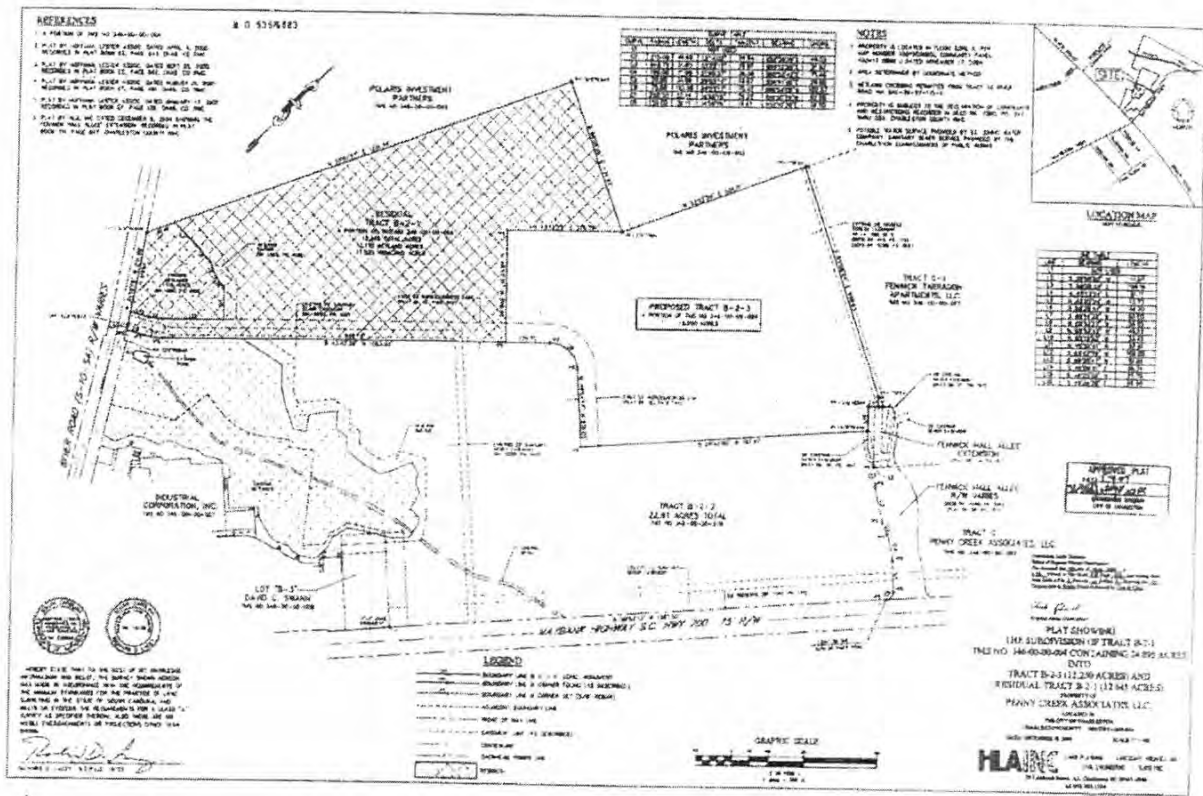
AND

ALL that piece, parcel or tract of land, together with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as "LOT 3 The Preserve Fenwick Plantation TMS 346-00-00-259 Owner: 1776, LLC, 191,188.51 SF, 4.389 AC", on a plat entitled, "A SUBDIVISION PLAT OF TMS #346-00-00-259 INTO LOT 3 (4.389 AC) AND LOT 3A (4.347 AC) OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" by Seamon Whiteside and Associates Surveying, LLC, dated September 8, 2018, and recorded in the ROD Office for Charleston County, South Carolina in Plat Book 12 at Page ~~24~~²⁴, said parcel having such location, size, shape, dimensions, buttings and boundings as will by reference to said plat more fully be shown.

TMS #346-00-00-259

***Planned Development Guidelines
Village at Fenwick
December 7, 2015***

APPENDIX F



RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document

**Filed By:**

HELLMAN YATES & TISDALE

105 BROAD STREET, 3 FLOOR
CHARLESTON SC 29401 (BOX)

RECORDED

Date: December 2, 2019

Time: 3:17:27 PM

Book	Page	DocType
0843	506	Agmt

Michael Miller, Register
Charleston County, SC

Maker:

CITY OF CHARLESTON

of Sats:

of Pages: 131

of Refs: Note: **Recipient:**

1776 LLC

Recording Fee	\$ 25.00
Extra Reference Cost	\$ -
Extra Pages	\$ -
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Chattel	\$ -
TOTAL	\$ 25.00

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131
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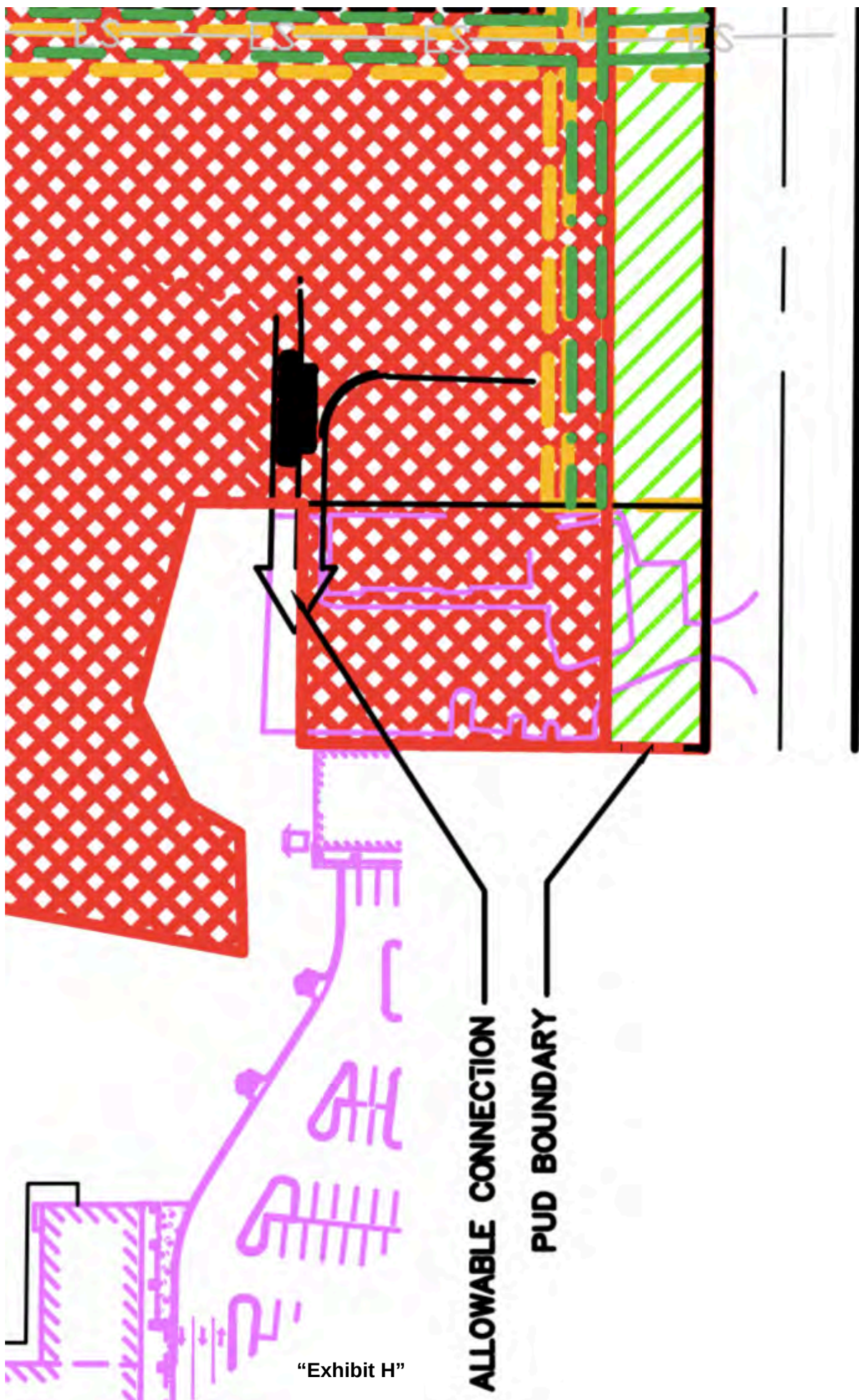
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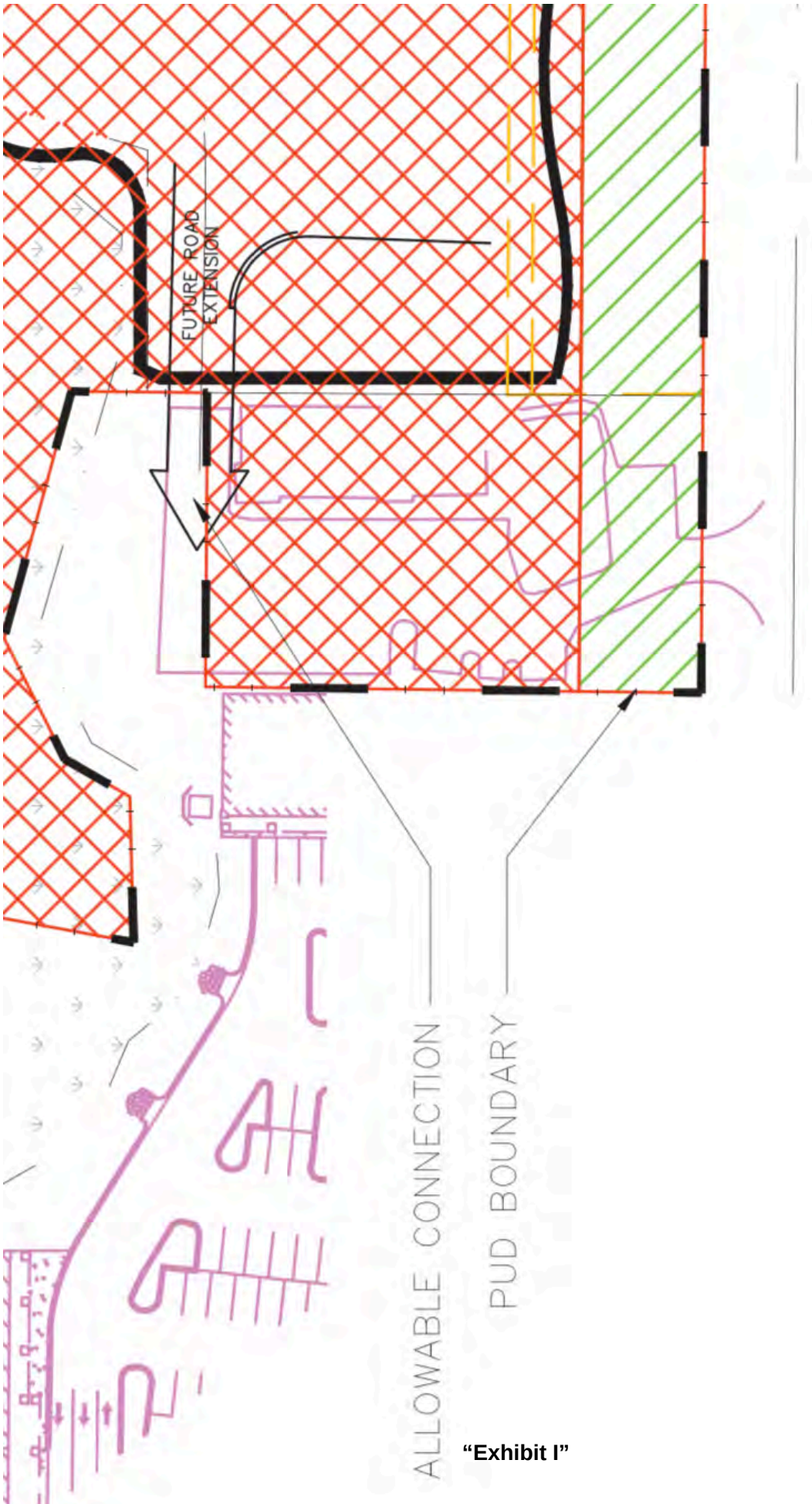


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Doc Type



15:17:27
Recorded Time





"Exhibit I"

Message

From: 1776 Management [1776management@gmail.com]
Sent: 11/18/2019 8:00:59 PM
To: Patterson Farmer [PFarmer@SeamonWhiteside.com]
CC: Russ Seamon [RSeamon@SeamonWhiteside.com]; Gene Zurlo [genezurlo@aol.com]; Alan McMahon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=82f0ad4e8ca14c67906abc7def925dd1-Alan McMaho]; Eddie Hughes [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=915c5929756945718a155c7ee160a919-Eddie Hughe]
Subject: Re: Fenwick Hall Allee (TRC# TRC-SUB2019-000134): Grand Tree Report & Survey

Thanks for reaching out Patterson.

You are correct that we have NO interest whatsoever in doing anything for Mitch Laplante, including assisting in the development of his or his kids' Lot bearing Tax Map # 346-00-00-260.

So long as we own the property, please do NOT release/share any information to Laplante, or anyone, else regarding and 1776,LLC property without our written permission.

I have copied Alan and Eddie, as the request concerns property currently owned by 1776,LLC, but, as you know, being purchased for development by The Beach Company.

On Nov 18, 2019, at 11:59 AM, Patterson Farmer <PFarmer@SeamonWhiteside.com> wrote:

Dennis,

I trust you had a good weekend. I received a phone call and email from Jason Esposito with Center Park Homes earlier this morning. They are working on designing and permitting a single family detached for rent neighborhood on the 12 acre parcel (TMS#: 346-00-00-260). To assist them with their design and to meet a requirement set forth by the City, they need a copy of our CAD file showing the driveway locations for the apartment site we are working on for Beach Company to align their road. Given the history here, I wanted to run this by you before sending a basic CAD file to Jason. Please confirm you have no issues with this or give me a call should you have any questions. Thanks.

Patterson

<image001.jpg>

R. Patterson Farmer, PE
Senior Civil Engineer
 (843) 884-1667 x 228
 (843) 457-5819 cell
PFarmer@SeamonWhiteside.com
www.seamonwhiteside.com

“Exhibit J”

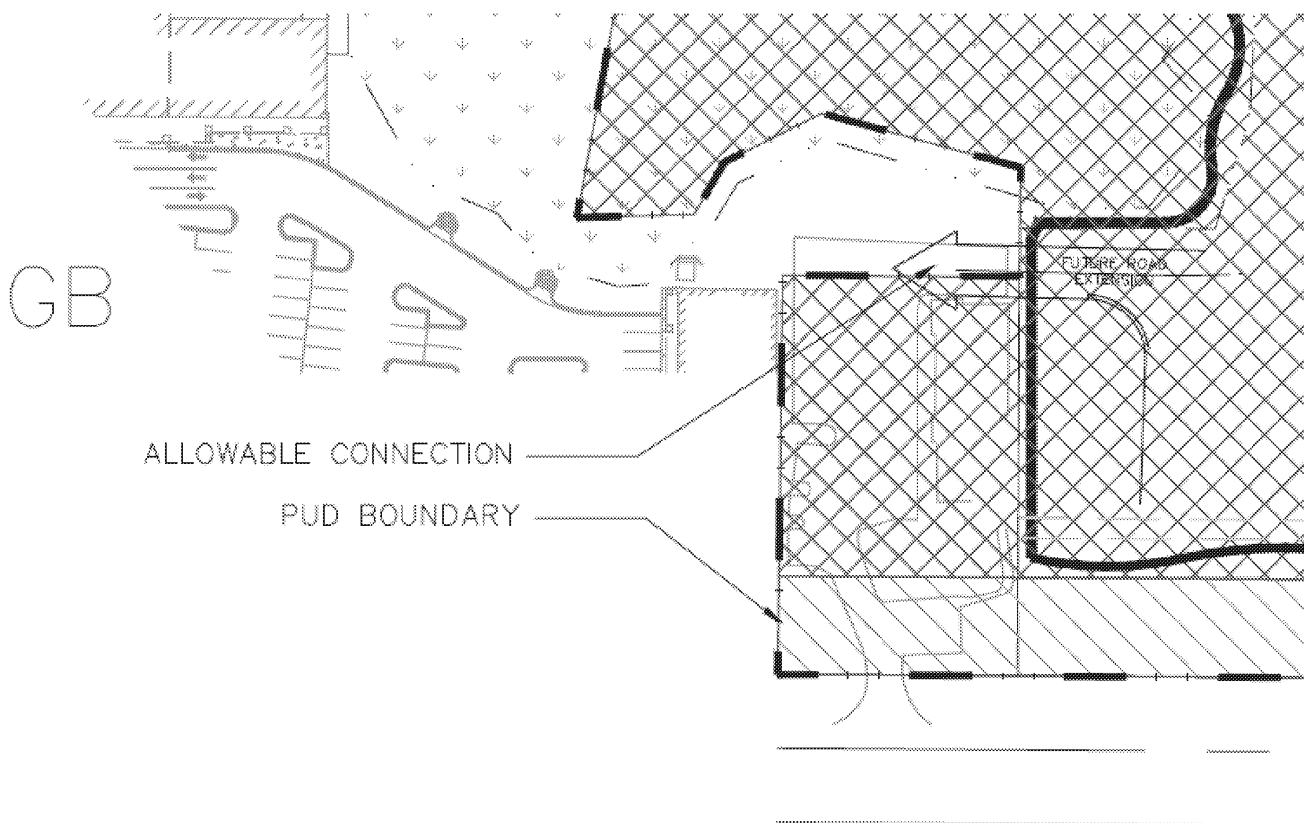
Message

From: Alan McMahon [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=82F0AD4E8CA14C67906ABC7DEF925DD1-ALAN MCMAHO]
Sent: 12/3/2019 2:02:39 PM
To: Andrew Dennis [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=653884f3499c42e69405b86dae845689-Andrew Denn]; Dan Doyle [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9b77d624b2fe4607af5170069a30cd57-Dan Doyle]; Eddie Hughes [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=915c5929756945718a155c7ee160a919-Eddie Hughe]
Subject: Fwd: Fenwick ALTA - Mitch LaPlante connection

Sent from my iPhone

Begin forwarded message:

From: Russ Seamon <RSeamon@SeamonWhiteside.com>
Date: December 3, 2019 at 8:48:59 AM EST
To: Alan McMahon <amcmahon@thebeachcompany.com>, Patterson Farmer <PFarmer@SeamonWhiteside.com>, Rivers Cape <RCape@SeamonWhiteside.com>
Cc: Eddie Hughes <ehughes@thebeachcompany.com>
Subject: RE: Fenwick ALTA - Mitch LaPlante connection



"Exhibit K"

This is what the PUD shows on the connection Mitch LaPlante was discussing. Says "allowable" not "required", but TRC could potentially force the issue if they want... The only easements I show in that area is the "existing utility" easement that comes into the property (orange) then turns north and hits the Pitchfork Rd. I wonder if he is confused and thinking that is an access easement?

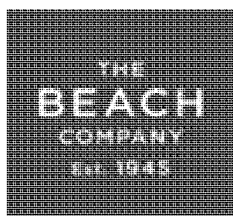
D. Russ Seamon, ASLA
 Director
 SeamonWhiteside
 M: 843.442.5342
 SeamonWhiteside.com

From: Alan McMahon <amcmahon@thebeachcompany.com>

Sent: Tuesday, November 26, 2019 2:34 PM

To: Patterson Farmer <PFarmer@SeamonWhiteside.com>; Rivers Cape <RCape@SeamonWhiteside.com>; Russ Seamon <RSeamon@SeamonWhiteside.com>

Subject: Fenwick ALTA



Alan McMahon
 Development Manager

m: 843.412.2739

t: 843.277.3026

e: amcmahon@thebeachcompany.com

www.TheBeachCompany.com



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Message

From: Russ Seamon [RSeamon@SeamonWhiteside.com]
Sent: 12/3/2019 4:20:00 PM
To: Alan McMahon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=82f0ad4e8ca14c67906abc7def925dd1-Alan McMaho]
Subject: RE: 2754 Maybank access road to Pitchfork, and sewer leech field easement

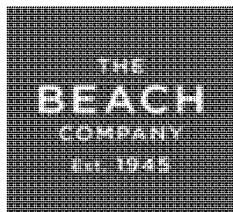
I spoke to Eddie – we need to have Hellman look into whether any language or exhibits were included in the amended PUD requiring a connection to Laplante. I looked into the language you sent (from appendixes) and that language was included only because we were LIFTING those restrictions with the PUD with the following language:

F. No new driveway or street connection to Maybank Highway shall be permitted from the planned development except for the planned 'Pitchfork Road', subject to the approval of the City of Charleston. No new street or driveway connections from the planned development to River Road shall be permitted except for the planned 'Pitchfork Road' connection. The existing vehicular connection from TMS 346-00-00-008 to Maybank Highway may remain. Approval of this PUD shall remove and replace the language found in restrictive covenant #4 pertaining to parcel 346-00-00-076 found in (Bk Y166, Pg 522; Bk V142, Pg 434) with the language found in this paragraph. See Appendix E for Restrictive Covenants. Vehicular connections to the Village at Fenwick shall be provided along the new Pitchfork Road.

D. Russ Seamon, ASLA
 Director
 SeamonWhiteside
 M: 843.442.5342
 SeamonWhiteside.com

From: Alan McMahon <amcmahon@thebeachcompany.com>
Sent: Tuesday, December 3, 2019 11:13 AM
To: Russ Seamon <RSeamon@SeamonWhiteside.com>
Subject: RE: 2754 Maybank access road to Pitchfork, and sewer leech field easement

We're already looking into it. What about the leech field comment? Nothing shows on the ALTA there.



Alan McMahon
 Development Manager

m: 843.412.2739
 t: 843.277.3026
 e: amcmahon@thebeachcompany.com
www.TheBeachCompany.com



-----Original Message-----

From: Russ Seamon <RSeamon@SeamonWhiteside.com>
Sent: Tuesday, December 3, 2019 10:49 AM
To: Alan McMahon <amcmahon@thebeachcompany.com>
Subject: FW: 2754 Maybank access road to Pitchfork, and sewer leech field easement

Alan

We need to discuss, and probably need a legal opinion here. It seems this was included in the amended PUD that Hellman and Yates handled. Probably was new enough that it didn't show up on the Alta? Please see correspondence below and attached.

"Exhibit L"

BF-BC_0002322

D. Russ Seamon, ASLA
 Director
 SeamonWhiteside
 M: 843.442.5342
 SeamonWhiteside.com

-----Original Message-----

From: Schultz, Eric <SCHULTZE@charleston-sc.gov>
 Sent: Tuesday, December 3, 2019 10:37 AM
 To: Russ Seamon <RSeamon@SeamonWhiteside.com>; Patterson Farmer <PFarmer@SeamonWhiteside.com>
 Cc: Lee Batchelder <batchelderl@charleston-sc.gov>
 Subject: FW: 2754 Maybank access road to Pitchfork, and sewer leech field easement

All,
 Do you have an exhibit that shows this easement referenced below?
 Eric

Eric Schultz | Principal Planner
 City of Charleston | Department of Planning, Preservation & Sustainability Zoning Division
 2 George Street | Charleston, SC 29401
 T:(843) 724-3790 | schultze@charleston-sc.gov | www.charleston-sc.gov

-----Original Message-----

From: Mitch LaPlante <scmitch@bellsouth.net>
 Sent: Monday, December 2, 2019 8:26 PM
 To: Schultz, Eric <SCHULTZE@charleston-sc.gov>; Jackson, Carol <JACKSONC@charleston-sc.gov>
 Cc: Jason Tarokh <jason@tarokhlaw.com>; Meeks, David <meeksd@charleston-sc.gov>; Mitch Laplante <scmitch@bellsouth.net>
 Subject: Fwd: 2754 Maybank access road to Pitchfork, and sewer leech field easement

Eric

I attended the Design Review meeting this evening.

I was caught off guard for sure.

Councilwomen Jackson, in attendance, introduced herself, and suggested I reach out to you to for help in addressing my concerns and make sure the access road and sewer easement are addressed. I agreed with her, and let her know that you and I have successfully worked together for over 20 years or so. Lots of history for sure.

Eric, I just happened to see the brightly colored sign Sunday evening, for the meeting tonight at 4:30 when leaving my daughter s home in the Preserve.

I was very surprised that a second hearing in design was occurring for the large apartment complex on land now owned by Gene Zurlo s 1776LLC. Given the fact that my family , thru it s ownership of 2754 Maybank LLC, and the 12.25 former Faison tract, are the only real abutters to this large development, I really thought we would have received notice of some kind. Neighborhood meeting, zoning, planning, etc.

That being said, prior to the meeting today, I downloaded the complete submission by the Beach Co for the meeting tonight. (Great accessibility site!)

I was shocked to see that the contracted 30' wide , mutually located, drive and walk from 2754 to the Pitchfork was not included.

Attached you ll find the documentation for this requirement, this agreement and partnership resolution prepared by Custis Byars of

Buist & Byars, between the new buyer of 2754 Maybank LLC, (my family), and PCA , (Gene Zurlo and me as 1/2 partners of PCA) was fully executed and signed by both , and in very clear detail. It addressed this 30' private access road. It s exact location was obviously not know due to uncertainty of the development plans for this site.

After the meeting tonight, Russ Seamon came up to me to offer condolences, and talk about the 30' access road. He first said he knew nothing about it, then I pointed out that in my investigation today, I found a very clear exhibit attached to the AMENDED PUD. Agreement approved by the city council in April, clearly calls for this access. He said he d look into it. I m sure he will.

Eric, we re not looking to halt the proposed apartment complex, as a matter of fact it appears to be a very decent design solution, except for the omission of our 30' private access road to the pitchfork, should be a positive impact on the area.

We will be available look forward to working with you and the city to assure this mutually agreed to access road is included into the final approved design for this development.

As a separate issue, it appears that the detention basin as designed east of the 2754 building is on top of a sewer easement granted to 2754 Maybank in the 70's. Our leech field is located there. Both can t occupy the same area.

Eric, thanks in advance for your help in getting this addressed. If you will let me know when the TRC meetings are for this development, I would like to attend.

Let me know when you d like to get together to address this access road from 2754 Maybank to the Pitchfork road.

Also, thank you for your kind words and thoughts on John, it s appreciated.

Sincerely

Mitch

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THE STATE OF SOUTH CAROLINA	) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	) NINTH JUDICIAL CIRCUIT
	)
MAYBANK 2754, LLC,	) CASE NO.: 2020-CP-10-00209
	)
Plaintiff,	)
	)
vs.	) DEFENDANT SEAMON, WHITESIDE &
	) ASSOCIATES, INC.'S SUPPLEMENT TO
EUGENE J. ZURLO, INDIVIDUALLY AND	) MOTION TO DISMISS AND/OR MOTION
AS CO-TRUSTEE OF THE EUGENE J.	) FOR SUMMARY JUDGMENT
ZURLO LIVING TRUST DATED	)
DECEMBER 11, 1997, 1776, LLC, BEACH	)
FENWICK, LLC, THE BEACH COMPANY,	)
SEAMON, WHITESIDE & ASSOCIATES,	)
INC., PENNY CREEK ASSOCIATES, LLC,	)
JOHN DOE AND MARY ROE,	)
	)
Defendants.	)

TO: ALL COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Defendant Seamon, Whiteside & Associates, Inc. (hereinafter, "SWA"), by and through its undersigned counsel, hereby supplements its previously filed *Motion to Dismiss Plaintiff's Complaint and Initial Memorandum in Support* (filed 2.20.20) by further seeking dismissal of Plaintiff Maybank 2754, LLC's claims against SWA pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, or, in the alternative, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. In support of this Motion, SWA incorporates the law and argument presented by Defendant Eugene J. Zurlo, Individually and as Co-Trustee of the Eugene J. Zurlo Living Trust Dated December 11, 1997's (hereinafter, "Zurlo Parties") in their Motion for Summary Judgment (filed on 8.14.20) and Defendants Beach Fenwick, LLC's (hereinafter, "Beach Fenwick") and Beach Company's in their Motion for Summary Judgment (filed on 8.19.20) and incorporates the same as if fully set forth herein verbatim with regard to Plaintiff Maybank 2754, LLC's claims against SWA as the facts and arguments contained within those Motions apply to SWA.

Supplementing, and without waiving, the grounds for dismissal found within SWA's previously-filed Motion to Dismiss, SWA hereby adopts the legal arguments espoused by the Zurlo Parties, Beach Fenwick, and Beach Company in their Motions for Summary Judgment, and incorporates herein the analyses in those Motions and any further Exhibits and memoranda filed in support of those Motions by reference, as if the same were included verbatim in SWA's Motion(s), pursuant to Rule 10(c), SCRCP. Pursuant to SWA's arguments pursuant to Rule 12(b)(6), SCRCP and/or Rule 56, SCRCP, SWA respectfully requests this Court dismiss all claim(s) brought by Plaintiff against SWA with prejudice.

This Motion may also be supported by the pleadings filed in this case, the statutory and common law of the State of South Carolina, and any such other matters as may be properly presented to the Court at the time of hearing. SWA further preserves and does not waive its right to incorporate other dispositive motions/grounds as they may apply to SWA.

Respectfully submitted,

COPELAND, STAIR, KINGMA & LOVELL, LLP

By: s/J. Patrick Norris

KENT T. STAIR
State Bar No.: 14029

J. PATRICK NORRIS
State Bar No.: 78270

JORDAN N. TEICH
State Bar No.: 77206

**Counsel for Defendant Seamon, Whiteside &
Associates, Inc.**

40 Calhoun Street, Suite 400
Charleston, South Carolina 29401
843-727-0307
kstair@cskl.law
pnorris@cskl.law
jteich@cskl.law

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
MAYBANK 2754, LLC,	)	CASE NO.: 2020-CP-10-00209
	)	
Plaintiff(s)	)	
	)	
v.	)	1776, LLC'S NOTICE AND
	)	MOTION FOR SUMMARY
	)	JUDGMENT
EUGENE J. ZURLO, Individually and as	)	
Co-Trustee of the Eugene J. Zurlo Living	)	
Trust Dated December 11, 1997; ET AL.,	)	
	)	
Defendants.	)	
	)	

TO: Jason M. Tarokh, Esquire, Counsel for Plaintiff

PLEASE TAKE NOTICE that Defendant, 1776, LLC, by and through its undersigned counsel, will move before this Court for an Order, pursuant to Rule 56, SCRCF, granting summary judgment as to all of Plaintiff Maybank 2754's claims. The grounds for this motion are set forth in the memoranda and supporting documents filed by the other Defendants in this action in support of their like respective motions for summary judgment, which Defendant 1776, LLC fully joins in and incorporates by reference.

/s/ Jason S. Smith
 Brian A. Hellman (72399)
 Jason S. Smith (80700)
 HELLMAN YATES & TISDALE, PA
 105 Broad Street, Third Floor
 Charleston, SC 29401
 (843) 266-9099
 (843) 266-9188 facsimile
bh@hellmanyates.com
js@hellmanyates.com

Attorneys for Defendant 1776, LLC

Charleston, South Carolina
 September 3, 2020

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

Plaintiff,

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; ET. AL.;

Defendants,

/

**PLAINTIFF'S MOTION TO COMPEL DEFENDANT, 1776, LLC, ANSWERS TO
INTERROGATORIES AND RESPONSES AND DOCUMENTS TO REQUESTS FOR
PRODUCTION**

**TO: BRIAN A. HELLMAN, ESQ., AND JASON S. SMITH, ESQ., ATTORNEYS FOR
THE DEFENDANT**

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, MAYBANK 2754, LLC, by and through the undersigned attorney, subject to the disposition of the pending appeal (Court of Appeals Case Number 2020-0013030), and while maintaining the pending appeal and also its objection to having any matter heard by the Master-in-Equity, hereby moves before the presiding judge of the Court of Common Pleas, pursuant to Rules 33, 34, and 37 of the South Carolina Rules of Civil Procedure for an Order compelling the Defendant, 1776, LLC (herein "Defendant"), to respond to the Plaintiff's First Set of Interrogatories and Plaintiff's First Set of Requests for Production of Documents, and states as follows:

1. Plaintiff's First Set of Interrogatories and Plaintiff's First Set of Requests for Production of Documents were both served on Defendant on March 4, 2020. True and correct of the interrogatories and requests for production are attached hereto and incorporated herein as "Exhibit A" and "Exhibit B" respectively.
2. On April 3, 2020, Defendant filed its Motion for Protection from Discovery or in the Alternative an Extension of Time to Answer Discovery. A true and correct copy of the motion for protection is attached hereto and incorporated herein as "Exhibit C".

3. On April 6, 2020, Plaintiff filed its Response to Defendant's, 1776, LLC, Motion for Protection from Discovery. A true and correct copy of the response is attached hereto and incorporated herein as "Exhibit D".
4. On June 16, 2020, the Honorable Bentley Price addressed the Defendant's motion for protection at a hearing. A true and correct copy of a portion of the transcript is attached hereto and incorporated herein as "Exhibit E".
5. On September 3, 2020, without having responded to Plaintiff's interrogatories and request for production, the Defendant filed its Notice and Motion for Summary Judgment to be heard on September 23, 2020.
6. As of the date of this motion, the undersigned counsel still has not received responses or documents to the above-referenced discovery requests, which prejudices the Plaintiff. Based upon the Defendant's filing its motion for summary judgment, there appears to be no intent on the part of the Defendant to respond to Plaintiff's discovery requests served almost six (6) months ago.
7. The undersigned counsel hereby certifies pursuant to Rule 11 that consultation with opposing counsel on the issue of Defendants' outstanding discovery responses will serve no useful purpose under the circumstances.

WHEREFORE, Plaintiff respectfully request an Order compelling the Defendant to appropriately respond to the Plaintiff's First Set of Interrogatories to the Defendant and Plaintiff's First Set of Requests for Production of Documents to the Defendant, and to also produce the responsive documents, and for such further relief as this court deems proper and just.

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510
jason@tarokhlaw.com

s/ Jason M. Tarokh
JASON M. TAROKH
S. CAROLINA BAR # 72837

September 3, 2020

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

Plaintiff,

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; 1776, LLC; BEACH FENWICK, LLC;
THE BEACH COMPANY; SEAMON, WHITESIDE
& ASSOCIATES, INC.; PENNY CREEK ASSOCIATES,
LLC; JOHN DOE AND MARY ROE

Defendants,

**PLAINTIFF'S FIRST SET OF INTERROGATORIES TO THE DEFENDANT, 1776,
LLC**

**TO: BRIAN A. HELLMAN, ESQ., AND JASON S. SMITH, ATTORNEYS FOR THE
DEFENDANT, 1776, LLC**

Plaintiff, MAYBANK 2754, LLC, by and through the undersigned attorney, pursuant to Rules 26 and 33 of the South Carolina Rules of Civil Procedure, hereby propounds the following interrogatories to the Defendant, 1776, LLC. The interrogatories should be answered separately and fully in writing under oath, and a copy of your answers should be served upon the undersigned counsel within (30) days after service herewith. The Plaintiff requests that these interrogatories be deemed to be of a continuing nature so as to require supplementation and amendment promptly, as needed in order to comport with facts and information that is not known or available to the Defendants when their initial answers to these interrogatories are served.

If any interrogatory cannot be answered in full, it should be answered to the extent possible and should set forth the reasons why it cannot be fully answered. If you refuse to answer any interrogatory in whole or in part, please set forth the factual basis for your refusal to answer, including any claim of privilege, in sufficient detail to permit the Court to adjudicate the

"Exhibit A"

validity of your refusal to answer or produce. Please identify separately each document for which a privilege is claimed.

DEFINITIONS AND INSTRUCTIONS

The term "describe" when used in connection with an event, conversation or translation means to identify the sources from which the information was derived and to identify all parties to the transaction, to state the date and place at which the transaction took place, to set forth in detail the statements made and actions taken by each party to the transaction and to identify each document relating to such transaction.

The term "documents" as used herein encompasses any writing, electronic, microfilm or graphic representation conveying information, regardless of the medium on which produced or recorded, including without limitation: accounts; affidavits; agreements; analyzes; applications of all types, appointment calendars; arithmetic data and computations; articles in newspapers, magazines or journals; assignments; audio recordings or audio tapes; bankbooks and statements; bank drafts; bills; books; booklets; books of account; bulletins; business and personal records; calculations; cards of all types; certificates of all types; charts or graphs of all types; checks and checkbooks; circulars; communications; computer generated information; contracts; handbooks or statements or company policy; correspondence; data compilations; data processing files and records; declarations; diagrams; diaries of all types; drafts; drawings of all types; electronic mail (e-mail); engravings; envelopes; expense statements; films; financial statements; forecasts; forms; formulas; graphs; handwritten materials; instructions; insurance claim forms; interoffice and intra-office communication; invoices; journals of all types; ledger books; letters; lists of all types; mailgrams; memoranda; messages; microfilm and microfiche; minutes; notes (including notations of telephone calls, meetings or conversations); orders, pamphlets; photographs and photographic negatives; pictures; planning materials; printed materials; memoranda; minutes; questionnaires; receipts; records; registrations; reports; returns; schedules; simulations; specifications;; statistical calculations, compilations and computations; studies; summaries; surveys; tax returns, including all schedules and attachments thereto; telecopies and facsimiles; telegraphs; telexes; tests and test results; texts; transcripts; travel and expense reports; typewritten materials; unemployment compensation claims and related materials; videos and video tapes; voice recordings; vouches; workers' compensation claims and related materials; and

work papers or other tangible thing or matter. Every copy of a document hereinafter requested which differs from the original in any respect as to the information it bears or reflects shall be produced as a separate document.

The term "Defendant" means the named Defendant, 1776, LLC, in this action and includes anyone acting on behalf of Defendant, now or in the past.

The term "date" shall mean the exact day, month and year, if ascertainable, or if not, the best approximation, including the temporal relationship to other events.

Any pronoun shall be deemed to designate the masculine, feminine, or neutral gender, and singular or plural, as in each case may be appropriate.

The terms "and" and "or" and any other conjunctions or disjunctions used herein shall be read both conjunctively and disjunctively so as to require the enumeration of all information responsive to all or any part of each interrogatory in which any conjunction or disjunction appears.

The terms "any", "each", and "all" shall be read to be all inclusive, and to require the enumeration of each and every item of information or document responsive to the interrogatory in which such term appears.

The terms "pertaining to", "relating to", or "referring to" as used herein mean evidencing, memorializing, referring, constituting, containing, discussing, describing, embodying, identifying, mentioning, stating, or otherwise alluding to or relating in any way, in whole or in part the subject matter referred to in the request.

When asked to "identify" or provide the "identity" of a person or persons, the following information shall be provided with respect to each such person:

- a. The person's full name.
- b. The person's last known business address;
- c. The person's last known home address;
- d. The person's last known business phone number;
- e. The person's last known home phone number;
- f. The name and address of the person's last known employer;
- g. The person's last known title, position, business or employment; and
- h. The person's whereabouts.

INTERROGATORIES

1. Give the names and addresses of persons known to the Defendant or its counsel to be witnesses concerning the facts of the case. For each person known to the Defendant or its counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the Plaintiff of the facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.
2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the Defendant that relates to the claims or defenses in the case.
3. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claims and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.
4. List the names and addresses of any expert witnesses whom Defendant proposes to use as a witness at the trial of this case.
5. Is Defendant asserting that the subject Resolution is a forgery as referenced in paragraph 57 of your Answer?
6. Identify with specificity the facts and evidence supporting the allegation that "Plaintiff's claims are barred by the statute of limitations" as alleged in paragraph 63 of your Answer.
7. Who attended the City of Charleston Design Review Board meeting on December 2, 2019, on behalf of 1776, LLC?
8. On or before December 12, 2019, did Defendant have knowledge of the alleged easement that is the subject of this case?
9. On or before December 12, 2019, was Defendant aware that Mitch Laplante was claiming that an access easement existed on the real property that is the subject of this case?
10. Describe with specificity any and all communications that occurred on and/or before December 12, 2019 as between Defendant and/or its employees, agents and/or independent contractors with any and all other defendants in this case and/or any and all of their employees, agents and/or independent contractors relative to the alleged easement that is the subject of this case.
11. Describe with specificity any and all communications that occurred at any time on or between December 2, 2019 through December 12, 2019 as between Defendant and/or its employees, agents and/or independent contractors with any and all other defendants in this case and/or any and all of their employees, agents and/or independent contractors relative to the December 2, 2019 City of Charleston Design Review Board meeting.

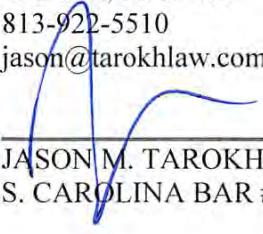
12. Describe with specificity any and all communications that occurred at any time on or between December 2, 2019 through December 12, 2019 as between Defendant and/or its employees, agents and/or independent contractors with any and all other defendants in this case and/or any and all of their employees, agents and/or independent contractors relative to Mitch Laplante's claim that an access easement existed on the real property that is the subject of this case.

13. Identify each member, manager, officer, and director of 1776, LLC, and include each member, manager, officer and director's ownership percentage of 1776, LLC.

14. Identify each and every person and entity having or who has had any legal and/or equitable interest in 1776, LLC from December 3, 2019 to present.

15. Identify each and every employee of 1776, LLC.

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510
jason@tarokhlaw.com



JASON M. TAROKH
S. CAROLINA BAR # 72837

March 4, 2020

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

Plaintiff,

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; 1776, LLC; BEACH FENWICK, LLC;
THE BEACH COMPANY; SEAMON, WHITESIDE
& ASSOCIATES, INC.; PENNY CREEK ASSOCIATES,
LLC; JOHN DOE AND MARY ROE

Defendants,

/

**PLAINTIFF' NOTICE OF SERVICE OF PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO THE DEFENDANT, 1776, LLC**

Plaintiff, MAYBANK 2754, LLC, by and through their undersigned counsel, hereby
gives notice of serving Plaintiff's First Set of Interrogatories to the Defendant, 1776, LLC, and
this Notice by mailing copies thereof by regular mail to the following person(s) on March 4,
2020:

Cheryl D. Shoun, Esq.
Alexandra H. Austin, Esq.
NEXSEN PRUET, LLC
PO Box 486
Charleston, SC 29402

J. Patrick Norris, Esq.
Kent T. Stair, Esq.
Jordan N. Teich, Esq.
COPELAND, STAIR, KINGMA & LOVELL, LLP
40 Calhoun Street, Ste. 400
Charleston, SC 29401

Jason S. Smith, Esq.
Brian A. Hellman, Esq.
HELLMAN YATES & TISDALE, PA
105 Broad Street, Third Floor
Charleston, SC 29401

J. Rutledge Young, Jr., Esq.
Blake McKie, Esq.
DUFFY & YOUNG, LLC
96 Broad Street
Charleston, SC 29401

Penny Creek Associates, LLC
c/o: Christopher Lanning, Esq.
12 A Carriage Lane
Charleston, SC 29407

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TAMPA, FL 33679
813-922-5510
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s/ Jason M. Tarokh
JASON M. TAROKH
S. CAROLINA BAR # 72837

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

Plaintiff,

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; 1776, LLC; BEACH FENWICK, LLC;
THE BEACH COMPANY; SEAMON, WHITESIDE
& ASSOCIATES, INC.; PENNY CREEK ASSOCIATES,
LLC; JOHN DOE AND MARY ROE

Defendants,

**PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO
THE DEFENDANT, 1776, LLC**

**TO: BRIAN A. HELLMAN, ESQ., AND JASON S. SMITH, ATTORNEYS FOR THE
DEFENDANT, 1776, LLC**

Plaintiff, MAYBANK 2754, LLC, by and through the undersigned attorney, pursuant to Rules 26 and 34 of the South Carolina Rules of Civil Procedure, requests that the Defendant, 1776, LLC, produce the documents and tangible things described below to TAROKH LAW, PLLC, PO Box 10827, Tampa, Florida 33679, within thirty (30) days after service herewith. These Request for Production are continuing in nature until the date of trial, and Defendants are required to serve supplemental responses and produce additional documents which become available to Defendants during the course of this litigation.

DEFINITIONS AND INSTRUCTIONS

Defendants shall produce all documents and tangible things requested herein in the possession, custody or control of it or its agents, servants, attorneys or other persons who have

"Exhibit B"

investigated or gathered information or documents relating to the subject matter of this litigation at the request or on behalf of the Defendants.

The term "documents" as used herein encompasses any writing, electronic, microfilm or graphic representation conveying information, regardless of the medium on which produced or recorded, including without limitation: accounts; affidavits; agreements; analyzes; applications of all types, appointment calendars; arithmetic data and computations; articles in newspapers, magazines or journals; assignments; audio recordings or audio tapes; bankbooks and statements; bank drafts; bills; books; booklets; books of account; bulletins; business and personal records; calculations; cards of all types; certificates of all types; charts or graphs of all types; checks and checkbooks; circulars; communications; computer generated information; contracts; handbooks or statements or company policy; correspondence; data compilations; data processing files and records; declarations; diagrams; diaries of all types; drafts; drawings of all types; electronic mail (e-mail); engravings; envelopes; expense statements; films; financial statements; forecasts; forms; formulas; graphs; handwritten materials; instructions; insurance claim forms; interoffice and intra-office communication; invoices; journals of all types; ledger books; letters; lists of all types; mailgrams; maps; memoranda; messages; microfilm and microfiche; minutes; notes (including notations of telephone calls, meetings or conversations); orders, pamphlets; photographs and photographic negatives; pictures; planning materials; plans; plats; printed materials; memoranda; minutes; questionnaires; receipts; records; registrations; reports; returns; schedules; simulations; specifications;; statistical calculations, compilations and computations; studies; summaries; surveys; tax returns, including all schedules and attachments thereto; telecopies and facsimiles; telegraphs; telexes; tests and test results; texts; transcripts; travel and expense reports; typewritten materials; unemployment compensation claims and related materials; videos and video tapes; voice recordings; vouches; workers' compensation claims and related materials; and work papers or other tangible thing or matter. Every copy of a document hereinafter requested which differs from the original in any respect as to the information it bears or reflects shall be produced as a separate document.

The term "Defendant" means the Defendant, 1776, LLC, in this action and includes anyone acting on behalf of Defendant, now or in the past.

The term "date" shall mean the exact day, month and year, if ascertainable, or if not, the best approximation, including the temporal relationship to other events.

Any pronoun shall be deemed to designate the masculine, feminine, or neutral gender, and singular or plural, as in each case may be appropriate.

The terms "and" and "or" and any other conjunctions or disjunctions used herein shall be read both conjunctively and disjunctively so as to require the enumeration of all information responsive to all or any part of each interrogatory in which any conjunction or disjunction appears.

The terms "any", "each", and "all" shall be read to be all inclusive, and to require the enumeration of each and every item of information or document responsive to the interrogatory in which such term appears.

The terms "pertaining to", "relating to", or "referring to" as used herein mean evidencing, memorializing, referring, constituting, containing, discussing, describing, embodying, identifying, mentioning, stating, or otherwise alluding to or relating in any way, in whole or in part the subject matter referred to in the request.

If Defendant objects to producing any document on the grounds that it is privileged from discovery based on the attorney-client privilege or work-product doctrine, or both, Plaintiff request that Defendant: (a) specify each and every basis for the claim of privilege regarding the document and (b) describe the document sufficiently to enable the Court to rule on the objection.

When asked to "identify" or provide the "identity" of a person or persons, the following information shall be provided with respect to each such person:

- a. The person's full name.
- b. The person's last known business address;
- c. The person's last known home address;
- d. The person's last known business phone number;
- e. The person's last known home phone number;
- f. The name and address of the person's last known employer;
- g. The person's last known title, position, business or employment; and
- h. The person's whereabouts.

DOCUMENTS TO BE PRODUCED

1. All documents identified or relied upon in Defendant's answers to Plaintiff's First Set of Interrogatories to the Defendant, 1776, LLC, as well as any and all documents reviewed

or consulted in preparation for your responses to Plaintiff's First Set of Interrogatories to the Defendant, 1776, LLC

2. All statements taken from witnesses concerning the facts of this case.
3. All written communications and documents transmitted to or from any experts retained or consulted by Defendant whom Defendant intends to call as a witness in this case.
4. All exhibits, documents, or materials Defendant intends to use or introduce at trial or use in any way in a hearing on this matter.
5. All documents and things sent to Defendant or received by Defendant from any expert whom Defendant intend to call as a witness in this case.
6. All reports, opinions or other documents created or generated by experts retained or consulted by Defendant whom Defendant intend to call as a witness in this case.
7. Any and all correspondence, letters, notices or other documents between Defendant and any witness or party to this case relating to the facts, causes of action, or defenses alleged in the pleadings.
8. All written communications and documents communicated between the Defendant and any and all other defendants named in this case from and including December 2, 2019 to present.
9. All documents supporting each affirmative defense alleged in Defendant's Answer.
10. All documents supporting each allegation made in Defendant's Answer.
11. All documents supporting each denial alleged in Defendant's Answer.
12. The title insurance policy for the real property that is the subject of this case.
13. The contract for the purchase and sale of real property that is the subject of this case, including any modifications and/or supplements thereto, between Defendant and Beach Fenwick, LLC.
14. All contracts and agreements relative to the purchase and sale and/or development of the real property that is the subject of this case between Defendant and any and all other defendants named in this case.
15. Any and all disclosures relative to the real property that is the subject of this case given on or before December 12, 2019 by 1776, LLC, to Beach Fenwick, LLC, and any and all other defendants named in this case.
16. The Defendant's entire file relative to the purchase and sale of the real property that is the

- subject of this case.
17. The Defendant's entire file relative to the development of the real property that is the subject of this case.
 18. All documents relative to City of Charleston Design Review Board meeting on December 2, 2019.
 19. All documents communicated between Defendant and the City of Charleston relative to the development of the real property that is the subject of this case.
 20. All documents Defendant submitted to the City of Charleston relative to the development of the real property that is the subject of this case.
 21. All documents relative to the development of the real property that is the subject of this case.
 22. All title search reports, title search documents, plans, drawings, renderings, maps, plats, pictures, and any and all due diligence and research documents Defendant gave to Beach Fenwick, LLC, and/or any and all other defendants named in this case in connection with the purchase and/or development of the real property that is the subject of this case.
 23. All documents relative to the alleged easement that is the subject of this case.
 24. All documents relative to Mitch Laplante's claim that an access easement existed on the real property that is the subject of this case.
 25. All written communications that occurred on and/or before December 12, 2019 as between Defendant and/or its employees, agents and/or independent contractors with any and all other defendants in this case and/or any and all of their employees, agents and/or independent contractors relative to the alleged easement that is the subject of this case.
 26. All written communications that occurred at any time on or between December 2, 2019 through December 12, 2019 as between Defendant and/or its employees, agents and/or independent contractors with any and all other defendants in this case and/or any and all of their employees, agents and/or independent contractors relative to the December 2, 2019 City of Charleston Design Review Board meeting.
 27. All written communications that occurred at any time on or between December 2, 2019 through December 12, 2019 as between Defendant and/or its employees, agents and/or independent contractors with any and all other defendants in this case and/or any and all of their employees, agents and/or independent contractors relative to Mitch Laplante's claim that an access easement existed on the real property that is the subject of this case.
 28. All meeting minutes relative to the Defendant's purchase of the real property that is the subject of this case, and/or the alleged easement that is the subject of this case, and/or

Mitch Laplante's claim that an access easement existed on the real property that is the subject of this case.

29. All corporate resolutions relative to the Defendant's purchase of the property that is the subject of this case, and/or the alleged easement that is the subject of this case, and/or Mitch Laplante's claim that an access easement existed on the real property that is the subject of this case.
30. All documents identifying each member, manager, officer, and director of the Defendant, and include each member, manager, officer and director's ownership percentage of Defendant.
31. All documents identifying each person and/or entity that has any legal and/or equitable interest in the Defendant.
32. All organizational charts or lists pertaining to the ownership and/or governance structure of the Defendant.
33. All articles of organizations of the Defendant.
34. All operating agreements of the Defendant.
35. All corporate charters of the Defendant.
36. All documents pertaining to the creation and ownership of the Defendant.
37. A list of the names, addresses and telephone numbers of all past and current employees of the Defendant from December 3, 2019 to present.
38. Copies of all insurance policies providing liability insurance coverage or purporting to provide such coverage for any of the claims set forth in the Plaintiff's Complaint.

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510
jason@tarokhlaw.com

JASON M. TAROKH
S. CAROLINA BAR # 72837

March 4, 2020

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

Plaintiff,

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; 1776, LLC; BEACH FENWICK, LLC;
THE BEACH COMPANY; SEAMON, WHITESIDE
& ASSOCIATES, INC.; PENNY CREEK ASSOCIATES,
LLC; JOHN DOE AND MARY ROE

Defendants,

**PLAINTIFF'S NOTICE OF SERVING PLAINTIFF'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS TO THE DEFENDANT, 1776, LLC**

Plaintiff, MAYBANK 2754, LLC, by and through their undersigned counsel, hereby
gives notice of serving Plaintiff's First Set of Requests for Production of Documents to the
Defendant, 1776, LLC, and this Notice by mailing copies thereof by regular mail to the
following person(s) on March 4, 2020:

Cheryl D. Shoun, Esq.
Alexandra H. Austin, Esq.
NEXSEN PRUET, LLC
PO Box 486
Charleston, SC 29402

J. Patrick Norris, Esq.
Kent T. Stair, Esq.
Jordan N. Teich, Esq.
COPELAND, STAIR, KINGMA & LOVELL, LLP
40 Calhoun Street, Ste. 400
Charleston, SC 29401

Jason S. Smith, Esq.
Brian A. Hellman, Esq.
HELLMAN YATES & TISDALE, PA
105 Broad Street, Third Floor
Charleston, SC 29401

J. Rutledge Young, Jr., Esq.
Blake McKie, Esq.
DUFFY & YOUNG, LLC
96 Broad Street
Charleston, SC 29401

Penny Creek Associates, LLC
c/o: Christopher Lanning, Esq.
12 A Carriage Lane
Charleston, SC 29407

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510
jason@tarokhlaw.com

s/ Jason M. Tarokh
JASON M. TAROKH
S. CAROLINA BAR # 72837

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
MAYBANK 2754, LLC,	)	CASE NO.: 2020-CP-10-00209
	)	
Plaintiff,	)	
	)	
v.	)	MOTION FOR PROTECTION FROM
	)	DISCOVERY OR IN THE
EUGENE J. ZURLO, Individually and as	)	ALTERNATIVE AN EXTENSION
Co-Trustee of the Eugene J. Zurlo Living	)	OF TIME TO ANSWER DISCOVERY
Trust Dated December 11, 1997; et al.,	)	
	)	
Defendants.	)	

Defendant 1776, LLC seeks protection from, or in the alternative, an extension of time to answer discovery served on it by regular mail by Plaintiff Maybank 2754, LLC on March 4, 2020. Such protection or an extension is required because of the COVID-19 pandemic. Defendant's two ultimate principals are in their late-70s and early-80s and both have serious underlying health conditions making them among the most vulnerable to COVID-19 and at highest risk for hospitalization and mortality. Following federal, state, and local orders, directives, and guidance, as well as the advice of their physicians, they are sheltering in place. They do not have the ability to meet with undersigned counsel and they do not have ability to access and produce information and documents sought in discovery, in paper or electronic form. It would accordingly be unduly burdensome and unsafe for Defendant to be required to respond to Plaintiff's discovery during this emergency. Plaintiff's discovery, moreover, is extensive. It includes 38 requests for production and 15 interrogatories, involving a vast amount of information and documents.

Defendant asked Plaintiff to agree to an initial 30-day extension due to the COVID-19 pandemic. Plaintiff refused, necessitating this motion.

"Exhibit C"

Defendant accordingly asks the Court to grant it protection from responding to this discovery until further notice when the Court deems it appropriate to lift the protection based on the resolution of the COVID-19 emergency affecting Defendant.

In the alternative, Defendant asks for an initial 30-day extension to answer discovery, and Defendant further asks that the Court direct Plaintiff not to unreasonably withhold its consent to additional extensions of time to answer discovery, if necessary, in consideration of future federal, state, and local orders, directives, and guidance, and the particular age and health concerns affecting Defendant. Such a directive would hopefully prevent the Court from being burdened with further motions for reasonable extensions that should be consented to by and among the parties, in accord with South Carolina's rules of civility and professional conduct, in this difficult time caused by the COVID-19 pandemic.

/s/ Jason S. Smith
Brian A. Hellman (72399)
Jason S. Smith (80700)
HELLMAN YATES & TISDALE, PA
105 Broad Street, Third Floor
Charleston, SC 29401
(843) 266-9099
(843) 266-9188 facsimile
bh@hellmanyates.com
js@hellmanyates.com

Attorneys for Defendant 1776, LLC

Charleston, South Carolina
April 3, 2020

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

Plaintiff,

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; 1776, LLC; BEACH FENWICK, LLC;
THE BEACH COMPANY; SEAMON, WHITESIDE
& ASSOCIATES, INC.; PENNY CREEK ASSOCIATES,
LLC; JOHN DOE AND MARY ROE

Defendants,

**PLAINTIFF'S RESPONSE TO DEFENDANT'S, 1776, LLC, MOTION FOR
PROTECTION FROM DISCOVERY**

Plaintiff, MAYBANK 2754, LLC, by and through its undersigned attorney, hereby responds to the Defendant's, 1776, LLC, Motion for Protection from Discovery or in the Alternative an Extension of Time to Answer Discovery (herein "Motion"), and in support thereof states as follows:

1. On March 4, 2020, Plaintiff served its interrogatories and requests for production on the Defendant.
2. On April 2, 2020, Defendant's counsel sent an e-mail to Plaintiff's counsel requesting an extension of time to respond to Plaintiff's discovery requests. The e-mail generally stated that the coronavirus is affecting Defendant's counsel's ability to meet with their client, a corporation, and respond to the discovery requests. A true and correct copy of the e-mail is attached hereto and incorporated herein as an exhibit.
3. In an e-mail sent on April 3, 2020, Plaintiff's counsel objected under the reasonable and good-faith belief that the Defendant, a corporation, could still communicate with its counsel electronically or other means that would make an in-person meeting unnecessary.
4. Defendant's counsel never responded to Plaintiff's e-mail response before filing the

"Exhibit D"

1369

Motion. The e-mail exchange was the only communication between Plaintiff and Defendant regarding the matter besides the Motion.

5. Defendants' counsel's e-mail never mentioned that the Defendant's two ultimate principals both had serious underlying health concerns making them the most vulnerable to COVID-19 and at the highest risk for hospitalization and mortality, and that they also lacked the ability to access and produce information and documents sought in discovery, in paper or electronic form, as specifically alleged in Defendant's Motion.

Respectfully submitted,

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510
jason@tarokhlaw.com

s/ Jason M. Tarokh
JASON M. TAROKH
S. CAROLINA BAR # 72837

April 6, 2020

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
Maybank 2754, LLC,	)	CASE NO. 2020-CP-10-00209
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	ORIGINAL
	)	
Eugene J. Zurlo, et al.,	)	
	)	
DEFENDANTS.	)	
	)	

June 16, 2020

Charleston, South Carolina, via Zoom

B E F O R E:

The Honorable Bentley Price

A P P E A R A N C E S:

For the Plaintiff:

Jason M. Tarokh, Esquire

For the Defendants:

Cheryl D. Shoun
 Brian A. Hellman
 J. Rutledge Young
 Andrew Dennis
 Blake McKie
 Marilyn Trevino
 Doug MacKelcan
 Jason Smith

Certified Transcript Provided For: Jason Tarokh, Esq.

Phyllis Norton, CVR-Master, Nationally Certified Verbatim Court Reporter
 636 Long Point Road, Unit G, #74, Mt. Pleasant, South Carolina 29464
 PNorton@sccourts.org

"Exhibit E"

1 the discovery. Because they have been back in their offices
2 for a couple of weeks now.

3 And as far as the continuance on the motion for the
4 temporary injunction, that relief was actually sought
5 originally in the complaint. There was a subsequent motion
6 filed, but the relief was sought in the complaint.

7 THE COURT: All right. So Mr. Tarokh, what was the
8 benefit of filing -- if you alleged it in your complaint what
9 was the benefit of filing a motion for the injunction as well?

10 MR. TAROKH: Well, Your Honor, the goal of the injunction
11 is to prevent development of the property which would
12 essentially, you know, make my client's easement almost an
13 impossibility by virtue of the construction, the buildings
14 that the plans set forth.

15 I should also add, Your Honor, we also requested
16 discovery from the former owner, 1776, LLC. They are
17 represented by the law firm I think - correct me if I am wrong
18 please counsel - Hellman and Tisdale. And we were met with
19 the same response. Motion for protective order was filed.
20 They have alleged that the principles of the corporation are
21 in a class that is most susceptible to the Coronavirus and
22 therefore they couldn't respond to the discovery, and they've
23 also filed a motion for a protective order.

24 THE COURT: All right.

25 MR. TAROKH: So ---

1 THE COURT: Does that motion need to be heard?

2 MR. HELLMAN: Your Honor, Brian Hellman on behalf of
3 1776, LLC. Our -- my client is a single member LLC. Its
4 single member is comprised of a trust which has two trustees.
5 One is 82 years old. The other is 78 years old and has
6 multiple sclerosis.

7 They are actually in Maine right now to avoid being in
8 any close contact with people. All of the documents that they
9 have regarding this transaction are located in Charleston. We
10 are trying to figure a way to get these documents and to get
11 some information from them, but I promise you it is not easy
12 when we are dealing with folks that are elderly and don't have
13 access to many of the things that are being requested. So we
14 are certainly trying. We wish we could get some kind of
15 reasonable extension here. And hopefully at some -- you know,
16 at some point we will be able to produce all of this
17 information.

18 THE COURT: All right. When did you file your motions
19 for production and interrogatories and stuff, Mr. Tarokh?

20 MR. TAROKH: Yes, Your Honor, the specific date was March
21 4th. I propounded on multiple defendants. It was March 4th
22 of 2020.

23 THE COURT: Okay. So 14 days before everything shut
24 down?

25 MR. TAROKH: Roughly, Your Honor. Yes.

1 THE COURT: All right. What do you consider to be a
2 reasonable extension, Mr. Hellman?

3 MR. HELLMAN: Well, Your Honor, that is a good question.
4 My clients don't expect to be back in Charleston until the end
5 of the summer. And they have no way to really get back here.
6 They don't want to fly commercial. So I am not certain what
7 the best way to get this information together would be. We
8 can certainly produce as much as we can get from them
9 verbally, but as relates to documents that may be -- that may
10 be substantially more difficult.

11 THE COURT: All right. Well, I certainly don't want to
12 put any elderly people in peril over some documents; but
13 obviously we need to have some way of moving this case
14 forward.

15 Here is what we will do. Mr. Tarokh, you have got to
16 understand that, you know, they are dealing with a lot of
17 people. They -- these are large corporations. Mr. Hellman's
18 clients have indicated that obviously they are not even
19 around, and things are certainly not back to normal. So you
20 are going to have to kind of work with them as best you can to
21 try to keep the case moving.

22 So here is what we are going to do. I will continue your
23 motion for the temporary injunction until later -- some time
24 late next week, maybe like Wednesday or Thursday. And we will
25 just reach out and just let you know another date and time.

1 That will give you the opportunity to take a look at the
2 documents that were filed and produced yesterday.

3 And if you do not need the motion -- or if you don't need
4 the motion heard, just indicate that. And at that time if
5 y'all could just get together and get a scheduling order
6 together and present that to me at that time. If not then I
7 will just make a decision and I will make a scheduling order,
8 okay.

9 MR. TAROKH: Yes, Your Honor, and just to clarify, no
10 documents in response to the discovery was filed or served
11 yesterday; it was their memorandum in opposition that was
12 filed. And Ms. Shoun indicated at the hearing a few minutes
13 ago that those documents should be forthcoming. So if that
14 can happen this week, that should be sufficient for a hearing
15 next week.

16 THE COURT: All right. That sounds great. And I will
17 give you more than ample time if you want to do any type of
18 response as well I will take a look at it, okay.

19 MR. TAROKH: Thank you, Judge.

20 THE COURT: All right. We will just reach out and let
21 you know a good date and time next week and we will send out a
22 link and everything just like we have in the past.

23 MR. TAROKH: Thank you.

24 THE COURT: All right. Are there any other motions on
25 behalf of anyone else?

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: 2020-CP-10-00209

MAYBANK 2754, LLC,

Plaintiff,

v.

EUGENE J. ZURLO, Individually and as Co-Trustee
of the Eugene J. Zurlo Living Trust Dated December
11, 1997; ET. AL.;

Defendants,

/

**PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE OF RECORDED DOCUMENT
AND DOCUMENT FILED WITH THE SOUTH CAROLINA SECRETARY OF STATE**

Plaintiff, MAYBANK 2754, LLC, by and through the undersigned attorney, subject to the disposition of the pending appeal (Court of Appeals Case number 2020-001030), and while maintaining the pending appeal and also its objection to having any matter heard by the Master-in-Equity, hereby moves before the presiding judge of the Court of Common Pleas to take judicial notice pursuant to Rule 201, SCRE, of the following documents, and also gives notice of filing true and correct copies thereof:

1. A Plat Showing the Subdivision of Tract B-2-1 into Tract B-2-3 and Residual Tract B-2-1, recorded in Plat Book EH, Page 903 on May 4, 2005 in the office of the Charleston County Register of Deeds.
2. Articles of Organization of Beach Fenwick, LLC, filed with the South Carolina Secretary of State.

Respectfully submitted,

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510

s/ Jason M. Tarokh
JASON M. TAROKH
S. CAROLINA BAR # 72837

September 14, 2020

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Mar 17 2020
REFERENCE ID: 490127


SECRETARY OF STATE OF SOUTH CAROLINA

**STATE OF SOUTH CAROLINA
SECRETARY OF STATE**

**ARTICLES OF ORGANIZATION
Limited Liability Company – Domestic**

Filing ID: 191203-0938363

Filing Date: 12/03/2019

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to S.C. Code of Laws Section 33-44-202 and Section 33-44-203.

1. The name of the limited liability company (Company ending must be included in name*)

Beach Fenwick, LLC

***Note: The name of the limited liability company must contain one of the following endings: "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", "LC", or "Ltd. Co."**

2. The address of the initial designated office of the limited liability company in South Carolina is
211 King Street, Suite 300

(Street Address)

Charleston, South Carolina 29401

(City, State, Zip Code)

3. The initial agent for service of process is

John C.L. Darby

(Name)

(Signature of Agent)

And the street address in South Carolina for this initial agent for service of process is:
211 King Street, Suite 300

(Street Address)

Charleston

South Carolina 29401

(City)

(Zip Code)

4. List the name and address of each organizer. Only one organizer is required, but you may have more than one.

(a)

Justin M. Hoyle

(Name)

205 King St., Suite 400

(Street Address)

Charleston, South Carolina 29401

(City, State, Zip Code)

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Mar 17 2020

REFERENCE ID: 490127


SECRETARY OF STATE OF SOUTH CAROLINA

Beach Fenwick, LLC

Name of Limited Liability Company

(b)

(Name)

(Street Address)

(City, State, Zip Code)

5. ☒ Check this box only if the company is to be a term company. If the company is a term company, provide the term specified. 12/31/2069
6. ☒ Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, include the name and address of each initial manager.

(a)

The Beach Co.

(Name)

211 King Street, Suite 300

(Street Address)

Charleston, South Carolina 29401

(City, State, Zip Code)

(b)

(Name)

(Street Address)

(City, State, Zip Code)

7. ☐ Check this box only if one or more of the members of the company are to be liable for its debts and obligations under Section 33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. This provision is optional and does not have to be completed.

8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time _____.

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Mar 17 2020

REFERENCE ID: 490127



SECRETARY OF STATE OF SOUTH CAROLINA

Beach Fenwick, LLC

Name of Limited Liability Company

9. Any other provisions not consistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement may be included on a separate attachment. Please make reference to this section if you include a separate attachment.

10. Each organizer listed under number 4 must sign.

Justin M. Hoyle

Signature of Organizer

Date: 12/03/2019

Signature of Organizer

Date: _____

**STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
2020-CP-10-00209**

MAYBANK 2754, LLC,

Plaintiff,

v.

**EUGENE J. ZURLO, Individually and as
Co-Trustee of the Eugene J. Zurlo Living
Trust Dated December 11, 1997; 1776, LLC;
BEACH FENWICK, LLC; THE BEACH
COMPANY; SEAMON, WHITESIDE &
ASSOCIATES, INC.; PENNY CREEK
ASSOCIATES, LLC; JOHN DOE AND
MARY ROE,**

Defendants.

**DEFENDANT EUGENE J. ZURLO,
Individually and as Co-Trustee of the Eugene
J. Zurlo Living Trust Dated December 11,
1997's SUPPLEMENTAL MEMORANDUM
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

Eugene J. Zurlo, individually and as Co-Trustee of the Eugene J. Zurlo Living Trust Dated December 11, 1997 ("Zurlo Parties"), by and through counsel, have moved before the presiding judge of the Court of Common Pleas for the Ninth Judicial Circuit at the Charleston County Courthouse, on September 24, 2020 or at such time as the Court may appoint, for an Order, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, granting summary judgment in its favor as to Plaintiff's Complaint. In addition to their August 24, 2020 Motion for Summary Judgment previously filed, the Zurlo Parties submit this Supplemental Memorandum in support of the same.

The Zurlo Parties request that the Court hear the Motions to Dismiss and for Summary Judgment based on the original Complaint filed on January 13, 2020. Then, if the Court decides these should be denied, allow the Amendment to the original Complaint and refile of Motions to Dismiss and Motions for Summary Judgment.

The most significant addition to the proposed Amended Complaint is the addition of the City of Charleston as a named Defendant, but no relief is sought from the City. The Plaintiff just wants the City to be bound by whatever final judgment is rendered in this case.

The Zurlo Parties understand Courts are reluctant to dismiss cases at the Summary Judgment stage if there is no legal or factual basis for the case to proceed. Reviewing just the Plaintiff's Complaint and Responses to the Zurlo Parties' Request to Admit, there is no genuine issue as to the fact that there is no written, recorded easement so all the parties are entitled to summary judgment as a matter of law. With no facts to support a claim, and no law on Plaintiff's side, then the court should dismiss the case to avoid prolonged futile time and expenses to all the parties. See *D.R. Horton, Inc. v. Builders FirstSource-Se. Grp., LLC*, 422 S.C. 144, 150, 810 S.E.2d 41, 45 (Ct. App. 2018), *Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013) (citing *Evans v. Stewart*, 370 S.C. 522, 526, 636 S.E.2d 632, 635 (Ct.App.2006)).

"Although summary judgment is a drastic remedy which should be cautiously invoked, where a verdict is not reasonably possible under the facts presented, summary judgment is proper." *Evans v. Stewart*, 370 S.C. 522, 526, 636 S.E.2d 632, 635 (Ct. App. 2006)

The Zurlo Parties suggest that the Court rule on the pending Motions in order of filing before the Motion to Amend, which ruling will not affect the currently pending appeal. The Court has the jurisdiction, discretion and ability to address all Motions filed to date before addressing the Plaintiff's Motion to Amend its Complaint, more specifically, the Court has discretion to deny a motion to amend if the party opposing the amendment can show a valid reason for denying the Motion to Amend. In its proposed Amended Complaint, Plaintiff again concedes that there is no written recorded express easement. So, the Amendment will be futile

since the same issue as to the existence of a legally enforceable easement will be before the Court again. Judicial economy and the avoidance of burdensome, expensive, time-consuming Motions give the Court the discretion to decide this issue once and for all at this stage of the proceedings. See *Skydive Myrtle Beach, Inc. v. Horry Cty.*, 426 S.C. 175, 182, 826 S.E.2d 585, 588 (2019).

1. The Appeal does not stay matters not affected by the appeal and the lower Court retains jurisdiction over matters not affected by the appeal. See SCACR 225 and SCACR 241 (a).

2. All parties except Penny Creek Associates, LLC have filed a Motion to Dismiss, Motion for Summary Judgment or both. As of the date of this Memorandum, the following dispositive Motions have been filed:

- Def. Beach Company's Motion to Dismiss on February 17, 2020;
- Def. Seamon Whiteside's Motion to Dismiss on February 20, 2020;
- Def. Beach Company's Motion for Summary Judgment on August 19, 2020;
- Def. Zurlo Parties' Motion for Summary Judgment on August 24, 2020; and
- Def. 1776, LLC's Motion for Summary Judgment on September 3, 2020.

3. The issue of the existence of an easement or not is a legal - i.e. possible jury-matter. Judge Scarborough says the threshold issue of whether there is legally enough evidence for an easement to exist is a matter of law: "...*that is the existence of an easement is a question of fact in a legal case. That does not mean that it necessarily gets past either 12(b)(6) or summary judgment*". See Hr'g Tr. Pg. 14, August 17, 2020 (attached hereto as **Exhibit A**).

Additionally, the Plaintiff concedes that his former lawyer and law firm failed to legally prefect the easement by putting it in written form and failing to record the easement in the

Register of Deeds office for Charleston County so as to provide actual and/or constructive notice to the public and these Defendants of the alleged thirty (30) foot private right of way easement. See Complaint.: *Maybank 2754, LLC v Buist, Byars & Taylor, LLC; Custis M. Byars* (2020-CP-10-02180) and Affidavit of Lisa Brown averring the agreement to create an easement should have been recorded in October of 2013 "...to put all future buyers and lenders on notice that Tract-B-2-2 is subject to an easement." (attached hereto as **Exhibit B**).

4. While the Court of Appeals has not yet dismissed the Appeal, Judge Scarborough's Order referring the entire matter back to Circuit Court moots the appeal. See Order referring the case back to the Circuit Court to resolve "legal issues" signed by Judge Scarborough on August 18, 2020 (attached hereto as **Exhibit C**).

CONCLUSION

The threshold legal issue is whether there is a legally enforceable easement. This legal issue will have to be heard by the Court before trial - so waiting for the Court of Appeals to decide to send the case back to Circuit Court for a jury trial only will prolong this question. The threshold issue does not go away. Therefore, if there is no genuine factual issue that an express written easement was never prepared or recorded, then it follows that there is no legal right to enforce a non-existent easement. Thus, the entire case should be dismissed, and Plaintiff has a right to appeal that holding.

Respectfully Submitted,

s/ J. Rutledge Young, Jr.

J. Rutledge Young, Jr. (SC Bar No. 5737)

Blake McKie (SC Bar No. 80198)

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*Attorneys for Defendant Eugene J. Zurlo,
Individually and as Co-Trustee of the Eugene J.
Zurlo Living Trust Dated December 11, 1997*

September 14, 2020
Charleston South Carolina

EXHIBIT A

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

Maybank 2754, LLC,
Plaintiff,

vs. CASE NO. 2020-CP-10-0209

Eugene J. Zurlo, Individually and
as Co-Trustee of the Eugene J. Zurlo
Living Trust Dated December 11, 1997;
1776, LLC; Beach Fenwick, LLC; The
Beach Company; Seamon, Whiteside &
Associates, Inc.; Penny Creek
Associates, LLC; John Doe and Mary Roe,
Defendants.

Hearing before the Honorable Mikell R.
Scarborough, reported by Christine A. Smith, Court
Reporter and Notary Public, at 10:07 a.m. on
August 17, 2020 100 Broad Street, Courtroom 2A,
Charleston, South Carolina.

Christine A. Smith, Court Reporter

Master-in-Equity
P.O. Box 30276
Charleston, South Carolina, 29417
(843) 958-5071
casmith@charlestoncounty.org

1 *Any court, party, or person who has purchased a
2 transcript may, without paying a further fee to the
3 reporter, reproduce a copy or portion thereof as an
4 exhibit pursuant to court order or rule or for
internal use, but shall NOT otherwise provide or sell
a copy or copies to any other party or person.

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P R O C E E D I N G S

THE COURT: The case is Maybank 2754, LLC versus Zurlo and the Zurlo Living Trust and a number of other people. Mr. Jason Tarokh is present for the Plaintiff, correct, Mr. Tarokh?

MR. TAROKH: Yes, Your Honor. Jason Tarokh on behalf of the Plaintiff.

THE COURT: Tarokh. All right, Mr. Tarokh. Thank you.

Next I have Rutledge Young. Mr. Young, you're representing whom?

MR. YOUNG: I represent Eugene J. Zurlo individually and as the cotrustee of his living trust, December 11, 1997.

THE COURT: And Ms. Shoun's on, and Cheryl, you represent whom?

MS. SHOUN: I represent Beach Fenwick, Your Honor, and the Beach Company.

THE COURT: Beach Fenwick and Beach Company. All right. Mr. Hellman?

MR. HELLMAN: Your Honor, I'm here with Jason Smith and we represent 1776, LLC. Jason is on by telephone.

THE COURT: I've got it. And Mr. Pritchard?

1 MR. PRITCHARD: Yes, sir. I represent Penny
2 Creek Associates.

3 THE COURT: Penny Creek Associates. Okay.
4 Who have I skipped over?

5 MS. TEICH: Me, Your Honor, Jordan Teich. I'm
6 here on behalf of Seamon Whiteside.

7 THE COURT: Very good.

8 MR. YOUNG: And Your Honor, Rutledge Young.
9 I've got Blake McKie who works with me also on the
10 telephone.

11 MR. McKIE: Good morning, Your Honor.

12 THE COURT: Very good. Good morning. The
13 case presented to me -- it came over by order and
14 then I noticed that Mr. Tarokh had filed an appeal of
15 the order of reference. I took a look at it.

16 I had gotten an e-mail requesting that we have
17 this status, and so I wanted to explore that with
18 you-all and figure out where we are. I don't know
19 that I even have jurisdiction, but I figured it
20 wouldn't hurt to have a status conference and figure
21 out where we are.

22 I wanted to verify what is on appeal and then
23 figure out where this case ought to be so we can
24 start moving that. It either needs to go back to
25 Circuit Court, go up to the Court of Appeals, or

1 wherever it needs to be. Mr. Tarokh, let me hear
2 from you, sir, if you would.

3 MR. TAROKH: Yes, Your Honor. The status
4 conference should not be happening. We filed an
5 objection to status conference because of the pending
6 appeal. I sent that to your law clerk. The entire
7 matter is pending before the Master, or it was until
8 we filed the Notice of Appeal, therefore, our
9 position is, Your Honor, this Court respectfully does
10 not have jurisdiction to entertain any matters
11 including the status conference. All matters are
12 impacted by the appeal.

13 THE COURT: All right. So the Notice of
14 Appeal as to all issues; is that what you're telling
15 me?

16 MR. TAROKH: Yes, Your Honor. We attached two
17 orders: The original Form 4 order and then the order
18 on the Motion for Reconsideration which transferred
19 the entire case to this Court, and it's those two
20 orders that we are appealing.

21 THE COURT: Okay.

22 MR. YOUNG: May it please the Court? I think
23 I'm next in line.

24 THE COURT: All right, Mr. Young.

25 MR. YOUNG: I represent, as you know, the

1 Zurlo parties, and actual Notice of Appeal states
2 that the matter on appeal is the mode of trial. It
3 basically is that Mr. Tarokh takes the position that
4 he's entitled to a jury trial on the issue of whether
5 or not this supposed springing easement is, in fact,
6 an easement that somebody has a right to enforce, so
7 our position is that when it was referred to you by
8 Judge Price, he gave you jurisdiction to hear all
9 matters not affected by the appeal, and I say that
10 based on Appellate Rule 205 and Rule 241 which
11 basically say the same thing, that once a matter is
12 referred to you as the Master-in-Equity and an appeal
13 is taken, you have the jurisdiction and authority
14 just like a Circuit Judge to hear nonjury matters.

15 If it comes to you -- Rule 53 really deals
16 with that and 53 says basically -- I think the word
17 is must refer any jury matters back to the Circuit
18 Court.

19 So Zurlo Trust's position pretty simply is
20 that there are matters of law that are nonjury
21 matters that can be heard by you for two separate
22 reasons. The first is the Rules that I mentioned and
23 Judge Price's order referring it to you. Because he
24 referred it to you pursuant to Rule 53, and if you
25 look at all of the appeals concerning whether or not

1 a jury trial is something that is a substantial right
2 that can be appealed -- as long as you have either
3 the authority to send it back or the Rule requires
4 you to send it back, that's something that is not
5 affected by the appeal.

6 So the second thing is, you'll recall -- and
7 I've been involved in this case since December of
8 2013, and Mr. Hellman has since about June of 2014,
9 there was a foreclosure case brought by Wells Fargo
10 in which you issued an order, and that's attached,
11 but it was 2014-CP-10-04946. So you have double
12 jurisdiction. Not only did Judge Price send this
13 case over to you, but -- I'm looking at Page 15 of
14 that order, Paragraph 10, after it says the Master
15 shall proceed with the sale, and then it says, and
16 it's a direct quote, that the other side,
17 Master-in-Equity -- that's you, Your Honor -- you
18 signed the order -- will retain jurisdiction to do
19 all necessary acts incident to this foreclosure. And
20 here's the key words, to hear any post judgment
21 matters including but not limited to the issuance of
22 a writ of assistance.

23 So you've got jurisdiction because Judge Price
24 sent it over to you. You've got jurisdiction that
25 you retained under this earlier foreclosure order,

1 and we believe that there are threshold, legal,
2 nonjury issues that you can decide even though the
3 appeal is pending.

4 Those quite simply are the Beach Company's
5 Motion to Dismiss, Seamon Whiteside's Motions to
6 Dismiss, 1776's Motions to Dismiss -- Thomas, did you
7 file one? Do you recall?

8 MR. PRITCHARD: I did not file one.

9 MR. YOUNG: You did or not?

10 MR. PRITCHARD: I did not.

11 MR. YOUNG: You did not. Okay. And then on
12 Friday I filed a Motion for Summary Judgment with a
13 group of documents attached. All of those are
14 threshold issues, Your Honor, that you can decide as
15 a matter of law as to whether or not there is even a
16 legal right for the Plaintiff to proceed. If you
17 decide there is, then I think probably what happens
18 is that you get to hear all of the underlying
19 discovery motions and other motions that may be
20 filed.

21 If you decide there's not a legal right to
22 proceed then the Plaintiff has got a right to appeal
23 that directly to the Court of Appeals under the Rule
24 or the orders by Judge Price. So we think those
25 matters are not affected by the appeal, and that you

1 have jurisdiction to schedule a hearing on those and
2 anything else that might come up between now and the
3 time that the appeal may be kept going or may be
4 dismissed.

5 Obviously, we're going to file a Motion to
6 Dismiss the Appeal. That's going to be coming fairly
7 soon. In the meanwhile you're got the jurisdiction
8 to hear these legal issues. Thank you very much.

9 THE COURT: All right, Mr. Young. Mr. Tarokh,
10 before I come back to you, let me go down my list.
11 Ms. Shoun or Mr. Hellman, whoever wants to be next?

12 MS. SHOUN: Your Honor, I'm glad to follow up.
13 Never mind following up on Rutledge. Rutledge
14 actually -- he set forth the argument very succinctly
15 and accurately. The only -- well, let me go back
16 just a minute, Your Honor.

17 I know Your Honor's looked at that, but under
18 the conclusion and order of Judge Price's order, it
19 includes the statement that all pretrial matters,
20 including the party motions, shall be and are hereby
21 referred to the Master-in-Equity with finality.

22 So there are pending motions. There will be
23 other motions that are being referred to Your Honor.
24 Nobody is asking the Plaintiff to waive any right to
25 a trial by jury to any matters on which Plaintiff may

1 be entitled to that. In fact, as Rutledge so
2 accurately pointed out, the order specifically
3 provides that the matters are being referred to
4 Your Honor pursuant to Rule 53. Rule 53 says, If
5 you're entitled to a jury trial it bounces back to
6 the Circuit Court.

7 Nobody has made the determination that there
8 is a right to trial by jury, but let's assume for a
9 moment that Plaintiff may be entitled to a right by
10 jury on some matters, then Your Honor has the matter
11 pursuant to 53, which means Your Honor is going to
12 take it back to Circuit Court for such a disposition.
13 In the interim, there are other matters pending over
14 which Your Honor certainly has jurisdiction.

15 THE COURT: All right.

16 MS. SHOUN: Thank you.

17 THE COURT: Very good. Okay. Next I have
18 Mr. Hellman.

19 MR. HELLMAN: Thank you, Your Honor. So as to
20 not repeat what Ms. Shoun and what Mr. Young had
21 said, I would completely incorporate everything
22 they've said. I think this is all controlled by
23 Rule 53, and Rule 53(b) is pretty clear.

24 THE COURT: Very good. Okay. And then
25 Ms. Teich?

1 MS. TEICH: Your Honor, I really have nothing
2 else further to add other than what my esteemed
3 colleagues have provided. We've had a Motion to
4 Dismiss filed on behalf of Seamon Whiteside since
5 February. It just keeps getting kicked along here,
6 and it's truly a matter of law that should just be
7 considered by Your Honor. So nothing further to add.

8 THE COURT: Very good. Okay. And
9 Mr. Pritchard, I have you muted. Hold on a second.

10 MR. PRITCHARD: Your Honor, I know better than
11 to speak after -- Mr. Young and Ms. Shoun have both
12 spoken so eloquently.

13 THE COURT: Very good. Mr. Tarokh, let me
14 come back to you then. Their position is that the
15 Court's got jurisdiction to at least entertain the
16 pending motions that -- your appeal addresses the
17 mode of trial, and we have not gotten to the mode of
18 trial yet. Let me hear from you on that one.

19 MR. TAROKH: Yes, Your Honor. Again,
20 respectfully, we have to, on behalf of my client, I
21 have to assert my objection to this proceeding as
22 this Court lacks jurisdiction, and my concern,
23 Your Honor, with going any further than that is that
24 it has been held that participation in a proceeding
25 before the Master-in-Equity has been deemed wavered

1 to the objection of the Master's authority and I
2 cited a case in my written objection.

3 So again, Your Honor, we object to this
4 proceeding and this Court's jurisdiction to hear this
5 matter and matters during the pendency of the appeal.

6 THE COURT: Very good. I've got it. Here's
7 where we are -- here's where I think that we are.
8 The matter before the Court -- there are Motions to
9 Dismiss which would be dispositive of the entire
10 case. I do think that the filing of the Notice of
11 Appeal would stay the jurisdiction of this Court to
12 entertain those motions.

13 I'm going to go one step further because this
14 appears to be -- the genesis of the case appears to
15 be a question of whether or not there is an easement.
16 As Mr. Young stated -- the argument is it was a
17 springing easement apparently based on the record
18 that I reviewed, there's no written easement. There
19 may be some oral agreement out there, which presents
20 its own Statute of Frauds problems, which I don't
21 need to address at this point in time, but what I'm
22 going to do is I'm going to refer the case back to
23 the Circuit Court.

24 The reason I'm going to do that is because
25 while the case has been referred under Rule 53 and it

1 can be done -- under Rule 53(b) any party may request
2 a jury pursuant to Rule 38 on any issues triable of
3 right by a jury, and upon the filing of a jury
4 demand, the matter shall be returned back to the
5 Circuit Court.

6 So I'm citing you to Rule 53. Then the other
7 thing that I'm going to cite you to is this issue,
8 and that is the existence of an easement is a
9 question of fact in a legal case. That does not mean
10 that it necessarily gets past either 12(b)(6) or
11 summary judgment, but it is -- this Court's tried a
12 lot of easement cases.

13 So the existence -- that's what really is at
14 stake here is the existence, whether or not there is
15 an easement, but I can tell you there's ample
16 authority on the existence of an easement, question
17 of fact, and a matter of law. So it's on that basis
18 that I'm going to refer it over.

19 In the event the Plaintiff gets to jury trial
20 and a jury determines that there is, in fact, an
21 easement, then it may be ripe for this Court's
22 determination as to the scope of the easement.
23 Generally that's where the Court is trying a lot of
24 cases. Is there an easement and if so, what are the
25 parameters of the easement.

1 That later issue is a question of fact in an
2 equitable matter. Again, there's ample authority for
3 that. So it's on that basis that I'm going to refer
4 the matter back to the Circuit Court for entertaining
5 the motions.

6 Frankly, I think that moots the appeal. The
7 Plaintiff can either agree to that or not agree to
8 that, but that certainly would allow Defendants to
9 file a Motion to Dismiss the Appeal. If that's the
10 basis for the appeal, then that would take care of
11 that issue.

12 I do know that because of the pandemic and all
13 the number of WebEx hearings we're having and the
14 inability to move cases along on the jury trial
15 docket, I know that the nonjury trial docket is
16 moving a lot faster over at the Circuit Court.

17 I put some thought into this before we came
18 out here. I think those are good arguments both
19 ways. It goes back to -- this issue was raised a lot
20 during the time of the Great Recession when people
21 were raising defenses to the foreclosure action. The
22 foreclosure action, clearly covered in Rule 53,
23 states that those can be referred over here pretty
24 much as a matter of right, but when there's a legal
25 issue involved, our Supreme Court has said that that

1 needs to be addressed first, the legal questions have
2 to be addressed first and then the equitable issues
3 can be addressed later.

4 So it's on that basis that I'm going to return
5 jurisdiction to the Circuit Court to get that issue
6 resolved. If it gets back to the point that it needs
7 to come here, I'm happy to hear the case. I don't
8 think that -- and I wanted to ask that question -- I
9 don't think that the Court retaining jurisdiction for
10 post-trial matters would apply. That foreclosure
11 case has got to be over, isn't it? Did this somehow
12 spin out of that? I'm assuming it's some of the same
13 parties. I can't imagine that that case is still
14 going on.

15 Mr. Young, I have you muted, so hold on. Go
16 ahead. I didn't hear you. I'm sorry.

17 MR. YOUNG: I said that that's probably pretty
18 smart to have me muted, but in any rate, here's what
19 happened in the foreclosure case. You ordered the
20 foreclosure and sale to take place on June 21, 2017.
21 It took place on August 3rd and Brian Hellman's
22 client, 1776, bought all of the PCA property out of
23 foreclosure. 1776 then began to sell large parcels
24 of the PCA property which obviously were subject to
25 the foreclosure. This 22-acre parcel was sold in

1 December of 2019 to Cheryl's client, the Beach
2 Company, who have a development agreement with the
3 City of Charleston to put a few apartments down
4 there. So the lawsuit basically has stopped a
5 \$15 million or \$20 million development because
6 Maybank 2754 claims it has a right to this springing
7 easement somewhere across the former PCA property.

8 So that's why we think you still have
9 jurisdiction because it all arises from the
10 foreclosure case and no mention was ever made of this
11 easement and the land that was foreclosed upon, the
12 plat attached to the land that was foreclosed upon or
13 any of the pleadings or any of the hearings before
14 Your Honor.

15 MR. HELLMAN: Your Honor --

16 THE COURT: They don't have -- go ahead.

17 MR. HELLMAN: Your Honor, if I may, this
18 really is just an attempt to reopen that foreclosure.
19 It's sort of a way to go back and try to rewrite your
20 foreclosure order to then provide for an easement
21 when the foreclosure order itself basically said it
22 was subject to certain matters of record and that's
23 it. Now we've got something that proceeded the
24 foreclosure that, Mr. Tarokh's client is claiming
25 he's got some right to.

1 THE COURT: Well, I've been down this road as
2 well. I remember I had a case with Mr. Wheeler one
3 time, David Wheeler, and I foreclosed on an easement
4 that existed post the mortgage, and he about had a
5 conniption fit. We ended up foreclosing on the
6 easement so the easement went away as well.

7 I don't know where they're coming from on this
8 argument, but they'll have to have some writing
9 somewhere that's going to survive that foreclosure
10 action, I believe. I think it's the better course at
11 this point in time to go ahead and send it back and
12 you-all try and educate the Circuit Court on this
13 one.

14 Again, if it needs to come back I'm happy to
15 hear it. I think at this point in time it just needs
16 to go back that way. Okay? I know that this has
17 been some long-time litigation.

18 I'm just going to do a Form 4 unless you-all
19 want something more than that. Mr. Tarokh's position
20 is that I don't even have jurisdiction to do it, but
21 I'm going to enter this order just so it's clear, and
22 we'll go from there. Okay?

23 MR. YOUNG: Your Honor, one final question.

24 THE COURT: Yes, sir.

25 MR. YOUNG: The court reporter, who is the

1 court reporter? I'm going to order a copy of this
2 transcript.

3 THE COURT: Sure. Ms. Christine Smith is my
4 court reporter here at the Master's Court. She will
5 be glad to get it to you.

6 MR. YOUNG: Thank you very much, Your Honor.

7 THE COURT: You-all take care.

8 (The proceedings were concluded at 10:27 a.m.)
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1 State of South Carolina)
2 County of Charleston) C E R T I F I C A T E
3

4 I, Christine A. Smith, Court Reporter and
5 Notary Public for the State of South Carolina at
6 Large, do hereby certify that the foregoing
7 transcript is a true, accurate, and complete record.

8 I further certify that I am neither related to
9 nor counsel for any party to the cause pending or
10 interested in the events thereof.

11 Witness my hand, I have hereunto affixed my
12 official seal this 20th day of August, 2020 at
13 Charleston, Charleston County, South Carolina.
14
15
16
17

18 _____
19 Christine A. Smith
20 Notary Public
21 My Commission Expires
22 May 12, 2021
23
24
25

EXHIBIT B

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: _____

MAYBANK 2754, LLC,

SUMMONS

Plaintiff,

(Jury Trial Requested)

v.

BUIST, BYARS & TAYLOR, LLC; CUSTIS
M. BYARS;

Defendants,

_____/

TO: BUIST, BYARS & TAYLOR, LLC; CUSTIS M. BYARS

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 your answer to the Complaint upon the subscribers, at their office, TAROKH LAW, PLLC, PO Box 10827, Tampa, FL 33679, within thirty (30) days, after service hereof, exclusive of the day of such service; and if you fail to answer the Complaint in the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510

/s/ Jason M. Tarokh
JASON M. TAROKH
SOUTH CAROLINA BAR # 72837

April 13, 2020

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE #: _____

MAYBANK 2754, LLC,

Plaintiff,

(Jury Trial Requested)

v.

BUIST, BYARS & TAYLOR, LLC; CUSTIS
M. BYARS;

Defendants,

_____ /

COMPLAINT

COMES NOW THE PLAINTIFF, MAYBANK 2754, LLC, and sues the Defendants, BUIST, BYARS & TAYLOR, LLC; CUSTIS M. BYARS; and alleges as follows:

General Allegations

1. Plaintiff, MAYBANK 2754, LLC (herein "Maybank"), is a limited liability company organized and existing under the laws of the State of South Carolina, and transacted business in Charleston County, South Carolina at all relevant times.

2. Defendant, BUIST, BYARS & TAYLOR, LLC (herein "BBT"), is a limited liability company organized and existing under the laws of the State of South Carolina and provided legal services as a law firm to Maybank, its client, in Charleston County, South Carolina at all relevant times.

3. Defendant, CUSTIS M. BYARS (herein "Byars"), is a resident of Charleston County, South Carolina, and a partner or principal of BBT. Byars provided legal services to Maybank, his client, as a licensed South Carolina attorney and as a partner or principal of BBT at all relevant times.

4. This Court has jurisdiction over the parties and the subject of this lawsuit.
5. Venue is appropriate in Charleston County, South Carolina.
6. The real estate that is the subject of this case (herein "Property") is described as

follows:

ALL that certain piece, parcel or tract of land situate, lying and being in the City of Charleston County, South Carolina, containing 19.322 acres, more or less, and being shown as "**TRACT B-2-2 TMS 346-00-00-076 OWNER: 1776 LLC PREVIOUS ACREAGE 998,976 SF 22.933 AC NEW ACREAGE 841,688 SF 19.322 AC**" on a plat entitled "A PLAT OF A PORTION OF TMS #346-00-00-004, and -076 OWNED BY 1776, LLC LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA FOR THE NORTHERN PITCHFORK ROAD" dated January 22, 2019, last revised December 4, 2019, prepared by Philip R. Bryan, Jr. S.C.P.L.S. No. 28597 of Southeastern Land Surveying LLC and recorded on December 4, 2019, in Plat Book L19, Page 0515, in the ROD Office for Charleston County, South Carolina. Said parcel having such size, shape, buttings and boundings as will more fully appear by reference to said plat.

BEING A PORTION of the property conveyed to Grantor by deed of Mikell R. Scarborough as Master-in-Equity dated August 29, 2017 and recorded August 29, 2017 at Book 0662, Page 915 in the ROD Office for Charleston County, South Carolina.

This being the same property conveyed to Beach Fenwick, LLC, by deed of 1776, LLC, recorded on December 12, 2019, in Book 0846, Page 268 in the ROD Office for Charleston County, South Carolina

TMS# 346-00-00-076.

7. Maybank owns a lot adjacent to the Property. The lot has a building situated thereon with office spaces for lease. During all material times, office space on the lot has been leased and is currently leased.

8. Penny Creek Associates, LLC, is a limited liability corporation organized and existing under the laws of the State of South Carolina ("herein "Penny Creek"), and transacted business in Charleston County, South Carolina at all relevant times.

9. Until on or about October 7, 2013, Penny Creek solely owned Maybank and was the sole member of Maybank.

10. On or about October 4, 2013, BBT and/or Byars provided legal services and drafted documents for the transfer of Penny Creek's membership interest in Maybank as attorney for Maybank. One of those documents was a certain Resolution of the Sole Shareholder of Penny Creek Associates, LLC (herein "Resolution"). A true and correct copy of the Resolution is attached hereto and incorporated herein as an exhibit.

11. Pursuant to the Resolution, Penny Creek approved the transfer of its membership interest in Maybank to individuals set forth therein (herein "Laplane Family"), and also agreed to grant to them, and their assigns, a thirty (30) foot private right of way access easement for pedestrian and vehicular ingress, egress and access to, from and over the Property, the location and condition of which to be mutually agreed upon at the completion of that certain roadway known as Pitchfork Road.

12. Pursuant to the Resolution, upon completion Pitchfork Road, an easement agreement to memorialize the thirty (30) foot private right of way easement would follow.

13. At the time of the Resolution, members of the Laplane Family owned real estate, or had an interest in residential real estate, that was also adjacent to the Property.

14. BBT and Byars prepared documents and did the closing for the transfer of Maybank from Penny Creek to the Laplane Family.

15. Pitchfork Road has not been completed.

16. The Resolution was not recorded.

17. Maybank was assigned rights to the thirty (30) foot private right of way easement.

18. The Property is in the process of being developed. However, upon information and belief, the development plans for the Property do not have any specific provisions or reservations for the thirty (30) foot private right of way easement upon the completion of Pitchfork Road, a

consequence of which is Charleston County Court of Common Pleas Case # 2020-CP-10-00209, wherein Maybank is seeking a declaratory judgment for the existence of the thirty (30) foot private right of way easement, or alternatively, a declaratory judgment for the existence of a restrictive covenant, civil conspiracy and temporary injunction against the current owner of the Property and others.

COUNT I
(Legal Malpractice)

19. At all times material hereto, BBT and Byars were under a professional obligation and fiduciary duty to Maybank to provide Maybank legal services, which includes the supervision of staff, paralegals and associate attorneys of BBT in the provision of legal services to Maybank, in conformity to the generally recognized and accepted practices of the legal profession in South Carolina and to exercise reasonable and ordinary care and diligence in the provision of those legal services as normally exercised by lawyers in similar circumstances.

20. BBT and Byars breached their professional obligation and fiduciary duty to Maybank to provide legal services, which includes the supervision of staff, paralegals and associate attorneys of BBT in the provision of legal services to Maybank, in conformity to the generally recognized and accepted practices of the legal profession in South Carolina and to exercise reasonable and ordinary care and diligence in the provision of those legal services as normally exercised by lawyers in similar circumstances by failing to record the Resolution, or failing to prepare and record a document, in the office of the Register of Deeds (formerly, Register of Mesne Conveyance) of Charleston County, South Carolina so as to provide constructive knowledge to the public of the existence of the thirty (30) foot private right of way easement.

21. BBT and Byars were careless and negligent failing to record the Resolution, or failing to prepare and record a document, in the office of the Register of Deeds (formerly, Register of

Mesne Conveyance) of Charleston County, South Carolina so as to provide constructive knowledge to the public of the existence of the thirty (30) foot private right of way easement.

22. As a direct and proximate result of the Defendants' breach of the above-described duty owed to Maybank, Maybank has suffered, and continues to suffer, damages.

23. Additionally, Maybank has suffered special damages in that its adjacent lot has lost the value of a (30) foot private right of way easement across the Property.

24. Plaintiff has retained TAROKH LAW, PLLC, to initiate and maintain this action and is obligated to pay it a reasonable fee for its services in bringing this action.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment for damages against the Defendants, including special damages, plus interest and including an award of attorney's fees and Defendants if an attorney's fees award is available under the law, court costs, and such further relief as this Court deems just and proper.

COUNT II
(Breach of Fiduciary Duty)

25. Plaintiff re-alleges the Paragraphs above as though fully set forth herein verbatim.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment for damages against the Defendants, including special damages, plus interest and including an award of attorney's fees and Defendants, if an attorney's fees award is available under the law, court costs, and such further relief as this Court deems just and proper.

REQUEST FOR JURY TRIAL

26. The Plaintiff requests a trial by jury on all issues so triable.

Respectfully submitted,

TAROKH LAW, PLLC
PO BOX 10827
TAMPA, FL 33679
813-922-5510

/s/ Jason M. Tarokh
JASON M. TAROKH
SOUTH CAROLINA BAR # 72837

April 13, 2020

**RESOLUTION OF THE SOLE SHAREHOLDER
OF PENNY CREEK ASSOCIATES, L.L.C.**

At a meeting of the Members of Penny Creek Associates, L.L.C. (the "Company") held at the Company's offices in Charleston, South Carolina, the Members of the Company hereby adopt the following resolutions:

WHEREAS, the Company is the sole member of Maybank 2754, LLC, a South Carolina limited liability company (the "Maybank 2754, LLC"); and

WHEREAS, pursuant to the terms and conditions of that certain Contract for Assignment of Interest, dated October 9, 2013, by and between the Company, Inc. (as Seller thereunder) and John H. Laplante, Michel F. Laplante, Peter F. Laplante, Marianne Laplante-Scarlatia, or their assigns (as Purchasers thereunder) (the "Agreement"), the Seller desire to sell, assign, transfer and convey certain Membership Interest in the Company to those certain Purchasers mentioned above and according to the provisions of the Agreement; and

WHEREAS, pursuant to the Agreement, the Company hereby certifies that the Company has complied with all provisions of the Company operating documents, with respect to the aforementioned sale, assignment and/or transfer of the Company Membership Interest in the Maybank 2754, LLC to the Purchaser, in consideration of Four Hundred Thousand and no/100 Dollars (\$400,000.00) and that the Members of the Company consent to the same; and

WHEREAS, as a condition of closing, the Company has agreed to grant, transfer, sell and convey to Purchasers, their successors and assigns, an access easement for pedestrian and vehicular ingress, egress and access to, from and over that portion of the lands of Seller known as "Residual Tract B-2-2" as shown on that plat by Richard D. Lacy, entitled "PLAT SHOWING THE SUBDIVISION OF TRACT C-1 TMS NO. 346-00-00-077), TRACT B-2-1 (TMS NO. 346-00-00-004), AND TRACT B-2-2 (TMS NO. 346-00-00-076) TO CREATE EXTENSION OF FENWICK HALL ALLEÉ (CONTAINING 0.272 ACRES) AND CREATING RESIDUAL TRACT C-1 (TMS NO. 346-00-00-077) CONTAINING 15.454 ACRES, RESIDUAL TRACT B-2-1 (TMS NO. 346-00-00-004) CONTAINING 24.895 ACRES, AND RESIDUAL TRACT B-2-2 (TMS NO. 346-00-00-076) CONTAINING 22.856 ACRES)," having been recorded in Plat Book EH, page 817 in the Charleston County RMC Office on March 25, 2005 ("30' Private R/W"), the location and condition of which shall be mutually agreed upon at the completion of that certain roadway known as Pitch Fork Road ("Pitch Fork Road"). Upon the completion of Pitch Fork Road, the Parties hereto shall execute and record an Easement Agreement to memorialize the 30' Private R/W.

NOW THEREFORE IT IS RESOLVED, that the Company approves the Agreement; the sale, assignment, transfer and conveyance of Membership Interest in the Company thereunder; and any and all other documents necessary to facilitate the Company's execution of the Agreement and its compliance with the transactions contemplated thereunder.

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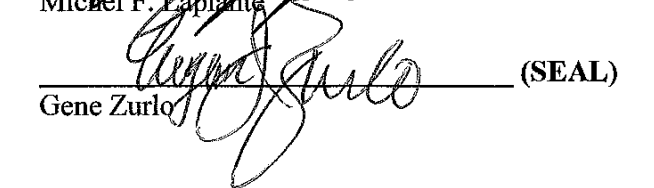
BE IT FURTHER RESOLVED, that upon the completion of Pitch Fork Road, the Company shall grant to Purchasers, their successors and assigns, an access easement for pedestrian and vehicular ingress, egress and access to, from and over that portion of the lands of the Company known as "Residual Tract B-2-2" as shown on that plat by Richard D. Lacy, entitled "PLAT SHOWING THE SUBDIVISION OF TRACT C-1 TMS NO. 346-00-00-077), TRACT B-2-1 (TMS NO. 346-00-00-004), AND TRACT B-2-2 (TMS NO. 346-00-00-076) TO CREATE EXTENSION OF FENWICK HALL ALLEÉ (CONTAINING 0.272 ACRES) AND CREATING RESIDUAL TRACT C-1 (TMS NO. 346-00-00-077) CONTAINING 15.454 ACRES, RESIDUAL TRACT B-2-1 (TMS NO. 346-00-00-004) CONTAINING 24.895 ACRES, AND RESIDUAL TRACT B-2-2 (TMS NO. 346-00-00-076) CONTAINING 22.856 ACRES)," having been recorded in Plat Book EH, page 817 in the Charleston County RMC Office on March 25, 2005 ("30' Private R/W"), the location and condition of which shall be mutually agreed upon at a future date.

BE IT FURTHER RESOLVED, that Michel F. Laplante in his capacity as Manager of the Company is hereby authorized to execute and deliver on behalf of the Company any and all agreements, assignments, satisfactions, releases, discharges, papers, documents, lending and collateral documents, offers, applications, leases, affidavits, certificates, certifications, verifications, non-disturbance agreements, guaranties, bonds, notes, subordination agreements, security agreements, resolutions, settlement statements, and any and all other contracts, papers or documents required in the course of the execution of the Agreement and the assignment and transfer of Membership Interest in the Company.

The undersigned Members of the Company do hereby certify that as of this 4th day of October, 2013 the above to be a true and correct transcript of the Resolutions passed by the Company at the time and place above stated.

MEMBERS:

 (SEAL)
Michel F. Laplante

 (SEAL)
Gene Zurlo

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

MAYBANK 2754, LLC,

CASE #:

Plaintiff,

vs.

AFFIDAVIT OF LISA BROWN

BUIST, BYARS & TAYLOR, LLC;
CUSTIS M. BYARS,

Defendants.

I, Lisa Hostetler Brown, having been first duly sworn, deposes and states that:

1. I am the managing attorney of the law firm of LawyerLisa, LLC.
2. I am licensed to practice law in South Carolina and North Carolina and I have been practicing continuously in the area of South Carolina real estate law since 2007.
3. I have handled thousands of real estate closings including residential and commercial transactions.
4. I am a co-presenter of the South Carolina Bar Real Estate Essentials CLE, a Real Estate Transactions II guest lecturer at USC School of Law, and co-author of the upcoming Real Estate Bar Book for South Carolina Attorneys.
5. I have reviewed the pertinent documentation related to the October 2013 transfer of Maybank 2754, LLC by Penny Creek Associates, L.L.C. (hereafter "Seller") to John H. Laplante, Michel F. Laplante, Peter F. Laplante, Marianne Laplante-Scarlata (hereafter "Purchaser").
6. I have reviewed the terms of the agreement whereby Seller agreed to grant to Purchaser a thirty (30') foot access easement across Seller's tract known as B-2-2 to the future roadway known as Pitch Fork Road.
7. It is my professional and expert opinion that the Defendant breached the applicable standard of care owed to a client and committed professional negligence in violating that standard of care as set forth below:
 - a. The Contract For Assignment of Interest (hereinafter "Agreement"), which upon information and belief was prepared by the Defendant for the benefit of Plaintiff,

STB

sets forth the terms upon which Seller would convey it's 100% interest in Maybank 2754, LLC to Purchaser

- i. The Agreement states that the Conveyance Documents will be the legal, valid and binding obligations of Seller and enforceable against Seller. (Section 3.1 of Agreement).
 - ii. The Agreement states that the Seller shall execute the Conveyance Documents in form and substance customary and usual for their intended purpose and reasonably satisfactory to Purchasers and its counsel. (Section 4.4 of Agreement).
 - iii. The Agreement states that Seller shall grant an easement across its Tract B-2-2 to Pitch Fork Road. The Agreement fails to state the beginning point of the easement, but upon information and belief, the parties intended the beginning point to be Tract B-3 which was and is owned by Maybank 2754, LLC. Upon completion of Pitch Fork Road, the parties intended to define the exact location and execute and record an Easement Agreement indicating the specifics of the right of way. (Section 4.5 of Agreement).
 - b. The Assignment of Membership Interest and Written Consent in Lieu of a Special Meeting of the Sole Member of Maybank 2754, LLC (hereinafter "Assignment"), which upon information and belief was prepared by the Defendant for the benefit of Plaintiff, transfers the Seller's membership interest in Maybank 2754, LLC to Purchaser
 - i. The Assignment states that "as a condition of closing", Seller agrees to grant the above described 30' access easement (Section 6 of Assignment).
 - c. Based upon my review of the documentation, the Defendant never prepared the agreed upon access easement in recordable format and no agreement was ever recorded in the Charleston County Register of Deeds Office.
 - d. Even though Pitch Fork Road was not yet complete, the agreement should have been recorded at the time of closing to put all future buyers and lenders on notice that Tract B-2-2 is subject to an easement.
 - e. An attorney exercising proper judgment and oversight would have prepared documentation of the agreement between the parties and recorded it with the Charleston County Register of Deeds Office to protect the Plaintiff's interest.
8. My professional opinion is based on my actual experience, general research, and review of the pertinent documentation related to this matter. I hold this opinion to a reasonable degree of legal certainty with the results being more probable than not.
 9. I have been retained as an expert witness by the Plaintiff and give my opinion in that capacity. This opinion is based on the allegations of the Complaint, which I assume to be true because of the supporting documentation I have reviewed. My opinions are subject to expansion and modification as further evidence or issues develop.
 10. This affidavit is given in compliance with South Carolina Code of Laws § 15-36-100, which does not require me to state all negligent acts, omissions, or wrongdoing by Defendant.

Handwritten signature/initials

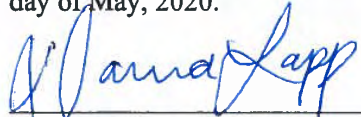
FURTHER, AFFIANT SAYETH NOT.

LAWYERLISA, LLC



Lisa Hostetler Brown

SWORN to and subscribed before me on this 13th
day of May, 2020.



Notary Public for South Carolina

My Commission Expires: 2/7/2028

EXHIBIT C

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP1000209

Maybank 2754 Llc
PLAINTIFF(S)

Eugene J Zurlo et al
DEFENDANT(S)

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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

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

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This matter was referred to this court by Order entered June 30, 2020 came before the court on August 17, 2020 for a status conference. Plaintiff objects to the court's jurisdiction as it has filed a Notice of Appeal of the Order of Reference on the basis of its Mode of Trial for which Plaintiff demands trial by jury. The Defendants contend that this court has jurisdiction based upon the Order of Reference under Rule 53(b) as well as this court's prior Order in Wells Fargo v. Penny Creek, L.L.C. et al. Case No. 2014CP1004946 in which the court ordered that this court retains jurisdiction of all post foreclosure matters in that action. The property was sold at auction thereafter. This court concludes that the matter should be returned to the circuit court for disposition under Rule 38 and 53(b) and that this ruling would moot Plaintiff's appeal.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/17/2020 .

Mary Roe
John Doe

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: 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 judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

FILED ELECTRONICALLY FILED - 2020 Sep 18 10:21 AM - CHARTERSTON - COMMON PLEAS - CASE#2020CP1000209



Charleston Common Pleas

Case Caption: Maybank 2754 Llc VS Eugene J Zurlo , defendant, et al
Case Number: 2020CP1000209
Type: Order/Electronic Form 4

So Ordered

s/Mikell R. Scarborough 3062

Electronically signed on 2020-08-17 11:23:04 page 3 of 3