

# **RICHLAND COUNTY BOARD OF ZONING APPEALS**

**Special Called Hearing**



**Wednesday, 28 June 2017**

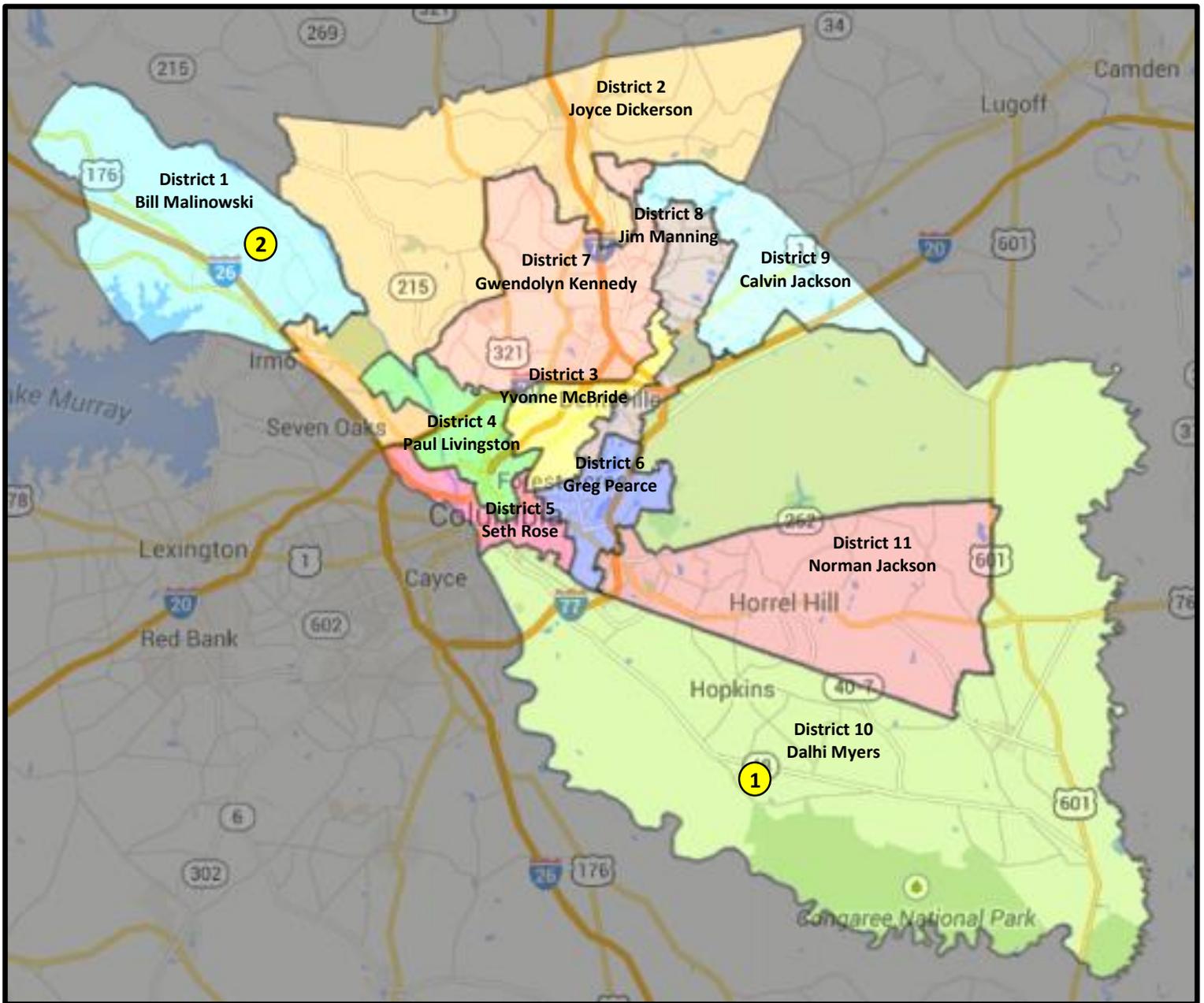
**3 p.m.**

**Council Chambers**



# RICHLAND COUNTY BOARD OF ZONING APPEALS

## June 28, 2017



CASE NO.	APPLICANT	TMS NO.	LOCATION	DISTRICT
1. 17-08 SE	Marguerite McClam	24200-09-99	E/S Base Hill Road Hopkins, SC 29061	Myers
2. 17-10 V	Katie Coble	04200-04-11	1912 Kennerly Road Irmo, SC 29063	Malinowski





**Richland County  
Board of Zoning Appeals  
Wednesday, June 7, 2017  
2020 Hampton Street  
2<sup>nd</sup> Floor, Council Chambers  
3:00 p.m.**

## **Special Called Hearing Agenda**

- I. CALL TO ORDER & RECOGNITION OF QUORUM ..... Joshua McDuffie, Chairman**
- II. ADOPTION OF AGENDA**
- III. PUBLIC NOTICE ANNOUNCEMENT**
- IV. RULES OF ORDER ..... Joshua McDuffie, Chairman**
- V. APPROVAL OF MINUTES - June 7, 2017**
- VI. PUBLIC HEARING ..... Geonard Price,  
Deputy Planning Dir. /Zoning Adm.**

### **OPEN PUBLIC HEARING**

**17-08 SE  
Marguerite McClam  
Base Hill Road  
Hopkins, SC 29061  
TMS# 24200-09-99  
Page 1**

**Request a special exception to establish a borrow pit on property zoned Rural (RU)**

**17-10 V  
Katie Coble  
1912 Kennerly Road  
Irmo, SC 29063  
TMS# 04200-04-11  
Page 21**

**Request a variance to encroach into the required rear yard setback on property zoned Rural (RU)**

- VII. OTHER BUSINESS**
  - A. Reconsideration of Case 17 – 09 V - Barry Bor  
Page 33**
- VIII. ADJOURNMENT**





## REQUEST, DISCUSSION AND RECOMMENDATION

### **CASE:**

17-08 Special Exception

### **REQUEST:**

The applicant is requesting the Board of Zoning Appeals to grant a special exception to permit the construction of a borrow pit in a RU (Rural) district.

### **GENERAL INFORMATION:**

*Applicant:* Marguerite McClam

*TMS:* 24200-09-99

*Location:* Base Hill Road, Hopkins, SC 29061

*Parcel Size:* 67.54 acre tract

*Existing Land Use:* The parcel is partially wooded and developed for crop production.

*Proposed Land Use:* The applicant proposes to construct a borrow pit.

*Character of Area:* The area consists of large tracts which are undeveloped and heavily wooded or residentially and agriculturally developed.

### **ZONING ORDINANCE CITATION:**

Table 26-V-2 of the Land Development Code authorizes the Board of Zoning Appeals to authorize borrow pits subject to the provisions of section 26-152 (d) (3).

### **CRITERIA FOR SPECIAL EXCEPTION:**

In addition to definitive standards in this chapter, the Board shall consider the following:

1. Traffic impact.
2. Vehicle and pedestrian safety.
3. Potential impact of noise, lights, fumes or obstruction of airflow on adjoining property.
4. Adverse impact of the proposed use on the aesthetic character of the environs, to include possible need for screening from view.
5. Orientation and spacing of improvements or buildings.

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### **Special exception requirements (as found in section 26-152 (d) (3)):**

(3) *Borrow pits.*

- a. Use districts: Rural; Rural Residential; M-1 and LI Light Industrial.
- b. Proposals for borrow pits will only be permitted where:
  1. There are overriding environmental or other planning benefits compared to obtaining materials from alternative sources;
  2. Alternative materials of the required specification are unavailable in sufficient quantities;
  3. They are contiguous with or close to the projects they are intended to serve;

4. They are time-limited to the life of the project and material is to be used only for the specified project;
  5. Proposals include appropriate reclamation measures that make full use of surplus spoil from the project;
  6. The site can be restored to its original levels or an alternative acceptable landform only utilizing materials from the construction project;
  7. Any impacts on the environment or local communities can be controlled to acceptable levels; and
  8. The project area is less than ten (10) acres.
- c. All borrow pits subject to this subsection shall comply with the following requirements:
1. The average slope of any cut bank measured from a point located ten (10) feet from the boundary of any abutting property to the bottom of the cut bank in the pit shall not exceed a horizontal to vertical ratio of 2:1. The owner of the borrow pit is responsible for maintaining this condition;
  2. The top of the cut bank of the borrow pit shall, at no time, be closer than ten (10) feet from the property boundary of any abutting landowner;
  3. The depth of the borrow pit is limited to a maximum of twelve feet below the average seasonal high water table or three feet above a confining or semi-confining unit, whichever is shallower;
  4. No excavation shall occur within two hundred (200) feet of a wetland or other surface water;
  5. Best management practices shall be used to control erosion and sediment transport during and after the excavation activities;
  6. The borrow pit slopes shall be stabilized with native vegetation within six months following completion of the excavation;
  7. Upon completion of the excavation area, side slopes shall be no steeper than 4 (horizontal):1 (vertical) out to a depth of two feet below the average water elevation;
  8. No on-site grading or sorting of materials shall occur; and
  9. The active excavation, processing, and transportation of fill material shall only occur between 8:00 a.m. and 8:00 p.m.

**DISCUSSION:**

The applicant proposes to establish a borrow pit within a 10± acre portion of the 67.54 acre tract.

Staff visited the site.

The subject site is located along HL Clarkson Road, an easement designated for paving through the County's resurfacing program. The northern portion of the property is agriculturally developed, while the southern portion is partially wooded. The abutting properties where the borrow pit is proposed are primarily developed for residential use.

The applicant is required to conform to the requirements of section 26-152 (d) (3). Meeting these requirements should demonstrate that the establishment of the borrow pit is warranted and should assist in minimizing the impact of a borrow pit on the surrounding area.

If granted approval, the South Carolina Department of Health and Environmental Control will impose additional provisions on the operation of the borrow pit.

Also, if granted approval, the proposed project will be subject to site plan review, which will entail a review from the following Richland County Departments:

- Planning
- Building
- Public Works
- Fire Marshal

Staff recommends approval for this request.

If the Board of Zoning Appeals grants the request, it is staff's recommendation that the following stipulations be applied to the approval:

1. Prior to any land disturbance of the subject site, a plat identifying the 10 acre tract must be submitted to the Planning Department; and

**CONDITIONS:**

Section 26-56 (f) (3)

*Conditions:* In granting a special exception, the board of zoning appeals may prescribe conditions and safeguards in addition to those spelled out in this chapter. The board of zoning appeals may also prescribe a time limit within which the special exception shall be begun or completed, or both. All conditions placed on the project by the board of zoning appeals shall be incorporated into such project.

**OTHER RELEVANT SECTIONS:**

N/A

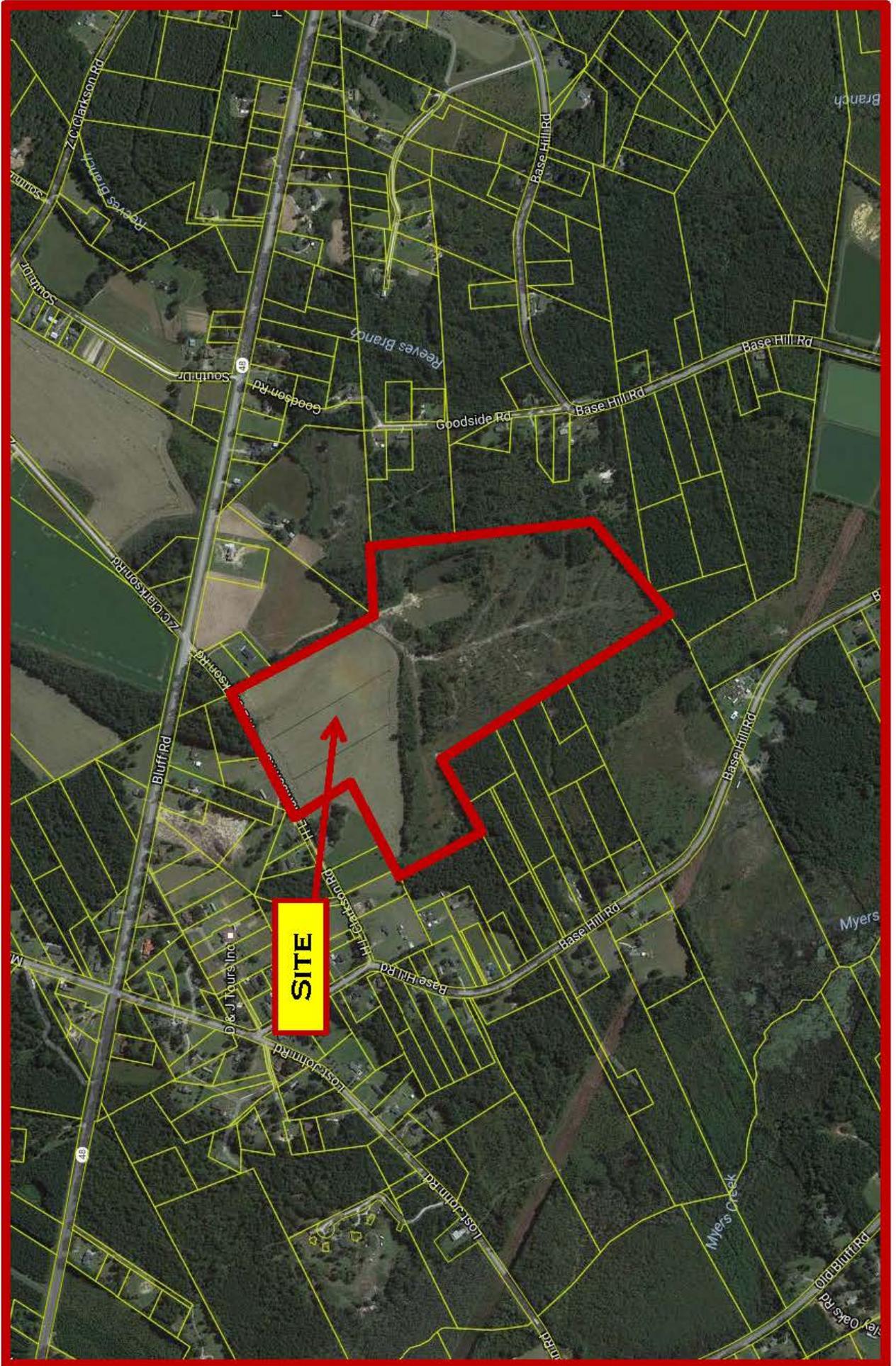
**CASE HISTORY:**

No record of previous special exception or variance request.

**ATTACHMENTS:**

- Application
- Aerial depicting general area of the borrow pit

**17-08 SE**  
**Marguerite McClam**  
**E/S Base Hill Road**  
**Hopkins, SC 29061**  
**TMS# 24200-09-99**





# BOARD OF ZONING APPEALS

## SPECIAL EXCEPTION



1. Location: Base Hill Rd.

TMS Page: R24200 Block: 09 Lot: 99 Zoning District: RU

2. The Board of Zoning Appeals is requested to consider the granting of a special exception permitting:  
A SCDOT Borrow pit, to be reclaimed as a pond

3. Describe the proposal in detail: A SCDOT and mine Borrow Pit for the improvements of Shop Rd. Ext. and the China project. Reclaimed as a pond.

4. Area attributed to the proposal (square feet): 435,601.74 +/- sq-ft ( 10.0 Ac+/-)

5. Are other uses located upon the subject property?  No  Yes (if Yes, list each use and the square footage attributed to each use):

a. Use \_\_\_\_\_ square footage \_\_\_\_\_

b. Use \_\_\_\_\_ square footage \_\_\_\_\_

c. Use \_\_\_\_\_ square footage \_\_\_\_\_

6. Total number of parking spaces on the subject property: N/A

7. Total number of employees on shift of greatest employment: 2

8. Address the following **Standards of Review** (Sec. 26-56 (f) (2) of the Richland County Land Development Code). Please note that the members of the Board of Zoning Appeals will use your answers, among other things, as they evaluate your request.

a. **Traffic impact:** Temporary impacts for the life of the project, trucks to haul materials to the project site. The project is located close to the material source, therefore reducing haul over long distances on other roads in the area.

b. **Vehicle and pedestrian safety:** SCDOT traffic signs will be posted as required by SCDOT  
The site has limited vehicle and pedestrian traffic

c. **Potential impact of noise, lights, fumes or obstruction of airflow on adjoining property:** Temporary  
impact of noise of equipment, but this is a rural area & tractors noise is normal in this area do to farming.

d. **Adverse impact of the proposed use on the aesthetic character of the environs, to include possible need for screening from view:** SCDHEC-NPDES Permit for Non-metallic materials will be obtained, SCDHEC mine permit as required and BMP's will be used to reduce the potential impacts to off site.

e. **Orientation and spacing of improvements or buildings:** See attached plan.





# Special Exception

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8. Will the proposed use have an adverse impact on the aesthetic character of the environs? Yes  No

In what way(s)? \_\_\_\_\_

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9. Is the orientation and spacing of improvements or buildings appropriate? Yes  No

In what way(s)? \_\_\_\_\_

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(3) *Borrow pits.*

b. Proposals for borrow pits will only be permitted where:

1. There are overriding environmental or other planning benefits compared to obtaining materials from alternative sources;
  - The site has soils that meet the specific required SCDOT specification for the required fill.
  - The borrow pit is located in a farm field where land disturbance occurs every time the field is plowed.
  - The site is close to the project site.
  - The site meets the contract requirements for construction traffic requirements.
  - The borrow pit ingress and egress does not pass any homes before entering a SCDOT road.
  - This borrow pit has been approved by SCDHEC per SC Mining Act section 48-20-280
2. Alternative materials of the required specification are unavailable in sufficient quantities;
  - There are not alternative materials available within area available at this time.
  - Project was design to use offsite borrow material
3. They are contiguous with or close to the projects they are intended to serve;
  - The site is close to the Shop Road Ext. project, which this borrow pit is permitted to serve. At the present time, there is nothing available in the area that is permitted and meeting the SCDOT specifications. Borrow Pit Approximately 7 miles from Shop Road job.
4. They are time-limited to the life of the project and material is to be used only for the specified project;
  - Per SCDOT and SCDHEC requirements, this material may only be used for the Shop Road Ext. project at this time. The borrow material may not be used for private projects, only SCDOT.
5. Proposals include appropriate reclamation measures that make full use of surplus spoil from the project;
  - Top soil will be removed from the proposed area and stock piled as required by SCDOT and SCDHEC on site, the borrow material will be dug and hauled to the Shop Road project, reclamation will use the top soil to create the required bank slopes, and banks will be grassed and grass will be established prior to SCDOT and SCDHEC approving the closure of the borrow pit. The reclaimed pond will be stocked with fish at the correct time.
  - There will not be any remaining surplus of spoil from this project.
6. The site can be restored to its original levels or an alternative acceptable landform only utilizing materials from the construction project;
  - The site will be restored per SCDOT and SCDHEC requirement as a pond, with bank slopes as required by SCDHEC and SCDOT permits.

7. Any impacts on the environment or local communities can be controlled to acceptable levels; and
  - SCDOT and SCDHEC permitting requirements require BMPs be used for the site, and the control the emissions from the site, the haul roads, water quality. Approximately 500 +/- feet of H.L. Clarkson Road will be improved for access to the site, which will provide safer access for the community on H.L. Clarkson Road in the future. SCDOT traffic signs will be posted as required by SCDOT. The site has limited vehicle and pedestrian traffic. Temporary lighting of the site is not required at this time for the site. Buffers of a minimum of 50 feet from the property line along H.L. Clarkson Rd. will remain in place during the borrow pit operation. Borrow pit is proposed to be a minimum of 100 feet off of all other property lines. See the submitted NPDES approved plans that have been submitted to the Zoning Department, sheet C-1. Other impacts to the local community are temporary,
8. The project area is less than ten (10) acres.
  - The proposed borrow pit is 10 acres. The total track is 67.54 ac.



April 26, 2017

COLLIER TAYLOR  
TAYLOR BROTHERS CONSTRUCTION CO INC  
2201 ATLAS RD  
COLUMBIA, SC 29209

RE: NPDES General Permit # SCG731415  
TAYLOR BROTHERS/TAYLOR MINE  
Richland County

Dear Mr. Taylor:

A Notice of Intent for coverage under a general NPDES Permit was received on April 24, 2017. Your facility has been assigned General NPDES Permit number SCG731415. All correspondence should reference this General NPDES Permit number. A copy of the NPDES General Permit for Discharges Associated with Nonmetal Mineral Mining Facilities is enclosed. You are responsible for complying with the conditions of this permit.

General Permit coverage is effective on April 26, 2017. This permit coverage is for a borrow pit associated with S.C Department of Transportation work. You may **not** begin any activity under this general permit coverage until you have a contract in place with the S.C. Department of Transportation.

Please see the enclosed South Carolina Board of Health and Environmental Control Guide to Board Review.

If you have any questions about the technical aspects of this permit, please contact Randall Thompson at 803-898-4314. Information pertaining to adjudicatory matters may be obtained by contacting the Legal Office, SCDHEC, 2600 Bull Street, Columbia, SC 29201, or by calling them at (803) 898-3350.

Sincerely,

  
Crystal D. Rippy, Manager  
Industrial Wastewater Permitting Section

Enclosures: General Permit  
Guide to Board Review

cc: Richland County Assessor

e-mail: Harry L Mathis, MIDLANDS REGION BEHS COLUMBIA  
COLUMBIA EQC LAB  
Randall Thompson, Industrial Section Permit Engineer  
Joseph Koon, Mining/Reclamation Division, BLWM  
Wendy Hamilton, Mine Permitting Section, BLWM  
Jaime Teraoka, BOW/WPC Enforcement

Mine Permit Application No.: DOT PROJECT



April 26, 2017

COLLIER TAYLOR  
TAYLOR BROTHERS CONSTRUCTION CO INC  
2201 ATLAS RD  
COLUMBIA, SC 29209

RE: NPDES General Permit # SCG731415  
TAYLOR BROTHERS/TAYLOR MINE  
Richland County

Dear Mr. Taylor:

Enclosed are your new Discharge Monitoring Report (DMR) Forms using EPA Form #3320-1. Please note that instructions for completing the forms are printed on the back of the forms. These DMR Forms are to be used for the NPDES General Permit issued to the above-referenced facility.

You will not receive a supply of the forms. These will be the only preprinted DMR forms you will receive until your permit is reissued or modified. If the DMR forms are lost or mutilated, you may request replacements by telephone call or in writing.

You must use these forms to make copies for all of your monthly and/or quarterly DMR Forms submitted on a yearly basis. Please send the properly signed DMRs and one copy of each completed DMR to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Pollution Control Division  
Data and Records Management Section  
2600 Bull Street  
Columbia, South Carolina 29201

Please check the limits and monitoring requirements preprinted on the forms to confirm that they correctly reflect the NPDES General Permit conditions. Please notify me of any errors, and I will provide you new forms with the errors corrected.

DMR submittal requirements - Please refer to Page 18, PART IV.B.6 of your General Permit for recording requirements and submittal of DMR Forms requirements. The submittal period for your permit is yearly. July through June are the months for the yearly reporting period. The first report may have less than 12 months of data.

Mr. Taylor  
Page 2

If you are planning on using your own computer generated DMR Forms, your forms must be approved before they will be accepted. Please submit your proposed DMR forms for approval to:

SCDHEC  
Bureau of Water  
ATTN: Patty G Barnes  
NPDES Administration  
2600 Bull Street  
Columbia, SC 29201

If you have any questions concerning the DMR forms, please contact me at 803-898-4232. If you have questions about the permit, call Randall Thompson at 803-898-4314.

Sincerely,

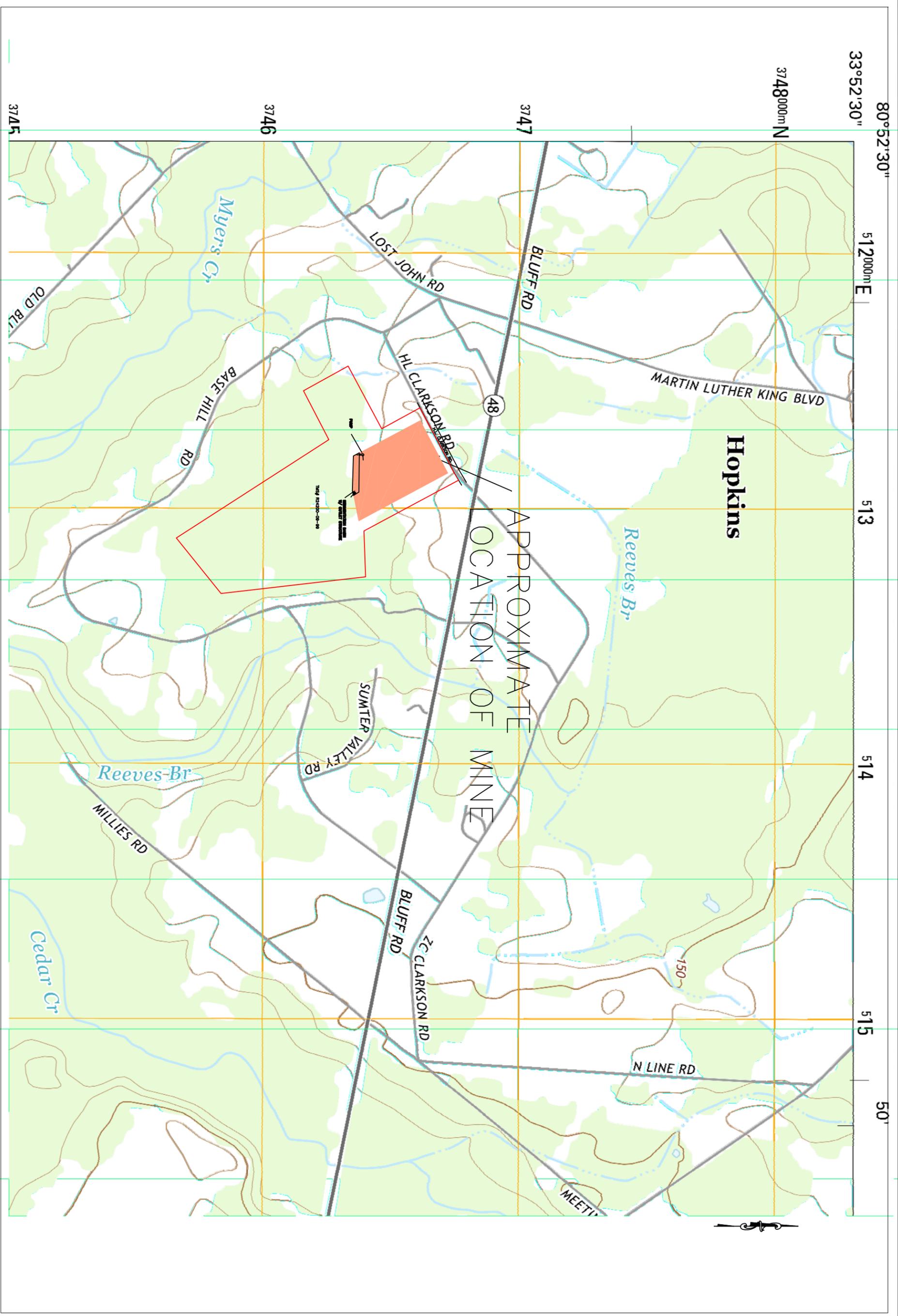


Patty G Barnes  
NPDES Administration

Enclosures

e-mail: Harry L Mathis, MIDLANDS REGION BEHS COLUMBIA  
Jaime Teraoka, BOW/WP Enforcement





P.O. BOX 991, 1416 CHAPIN ROAD  
 CHAPIN, SOUTH CAROLINA 29036  
 (803) 932-2300  
 FAX (803) 345-2823

DRAWN BY: GMM  
 CHECKED BY: GMM

APPROVED FOR CONSTRUCTION   
 NOT APPROVED FOR CONSTRUCTION   
 THIS DRAWING IS THE PROPERTY OF PALMETTO CONSULTING ENGINEERING GROUP, INC. UNAUTHORIZED USE OF ANY KIND, INCLUDING USE ON OTHER PROJECTS, IS PROHIBITED.



NO.	DATE	DESCRIPTION

SHOP ROAD EXT.

CITY  
 PREPARED FOR  
 TAYLOR BROTHERS  
 2201 ATLAS ROAD  
 COLUMBIA, SC 29209  
 803.773.5113

GADSDEN - SC  
 USGS TOPO MAP

PROJECT # 170010  
 SHEET C-5  
 DATE 4/17/2017 5 OF 5



PO BOX 991, 1416 CHAPIN ROAD  
 CHAPIN, SOUTH CAROLINA 29036  
 (803) 932-2300  
 FAX (803) 345-2823

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 CHECKED BY: GMM

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NO.	DATE	DESCRIPTION

SHOP ROAD EXT.  
 TAYLORS PIT  
 CITY  
 PREPARED FOR  
 TAYLOR BROTHERS  
 2201 ATLAS ROAD  
 COLUMBIA, SC 29209  
 803.773.5113

SITE PLAN

PROJECT # 170010  
 DATE 4/19/2017  
 SHEET C-1  
 1 OF 5



**NOTICE TO CONTRACTOR**

- 1) THE CONTRACTOR SHALL FIELD VERIFY THE ONSITE T.B.M. w/ EXISTING ELEVATIONS. THE CONTRACTOR SHALL IMMEDIATELY CONTACT PALMETTO CONSULTING ENGINEERING GROUP, INC. @ 803.932.2300 IF ANY DISCREPANCIES ARE FOUND IN ELEVATIONS SHOWN.
- 2) PRIOR TO CONSTRUCTION, DIGGING, OR EXCAVATION THE CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL UNDERGROUND UTILITIES (PUBLIC OR PRIVATE) THAT MAY EXIST AND CROSS THROUGH THE AREA(S) OF CONSTRUCTION, WHETHER INDICATED ON THE PLANS OR NOT. CALL "811" A MINIMUM OF 72 HOURS PRIOR TO DIGGING OR EXCAVATING. REPAIRS TO ANY UTILITY DAMAGED RESULTING FROM CONSTRUCTION ACTIVITIES SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.



**Know what's below.  
 Call before you dig**

10-AC MINE

SEDIMENTATION BASIN  
 W/ OUTLET STRUCTURE

PUMP

TMS# R24200-09-99

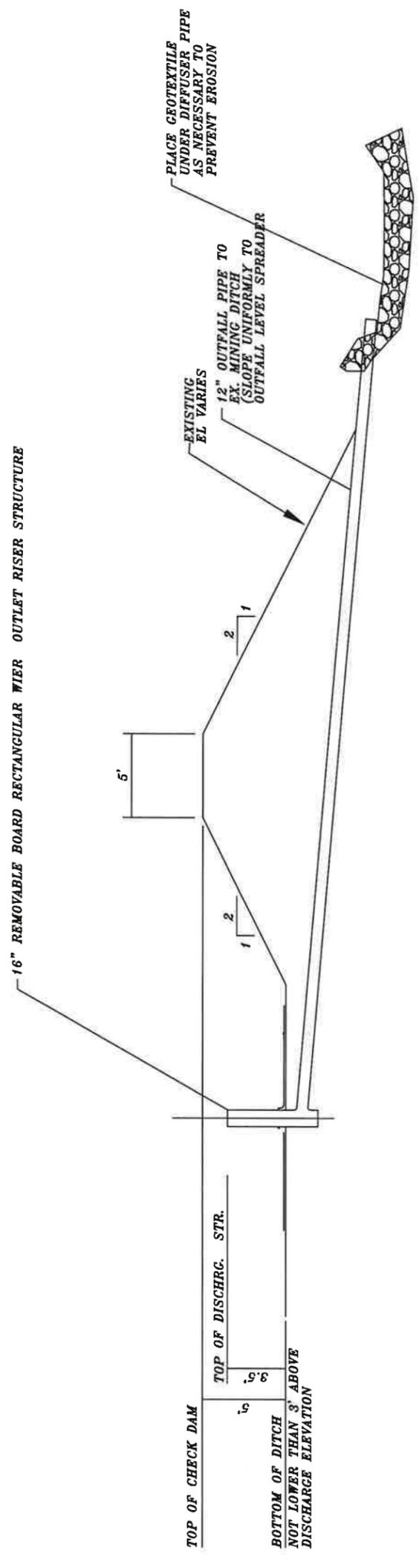
H.L. CLARKSON RD.



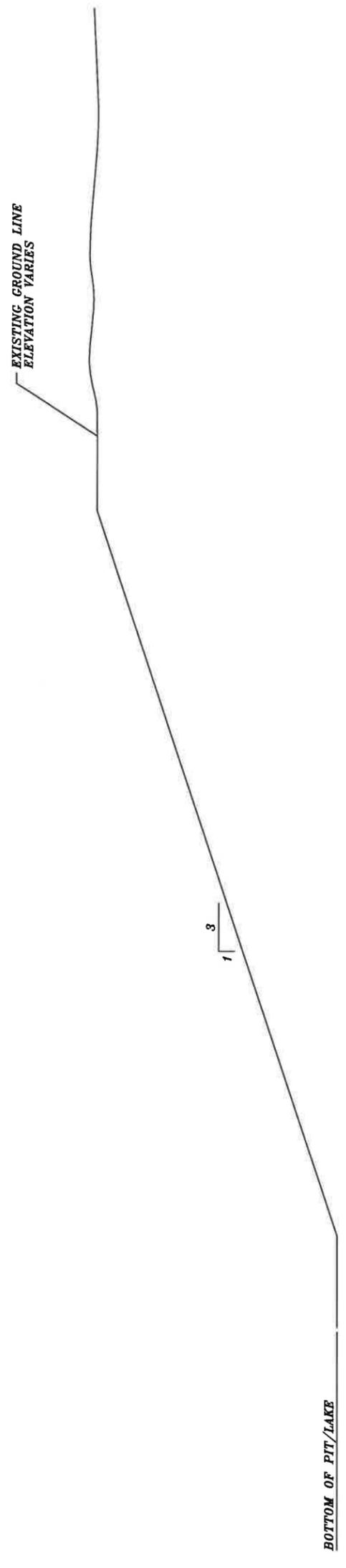
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SHOP ROAD EXT.  
 CITY  
 PREPARED FOR  
 TAYLOR BROTHERS  
 2201 ATLAS ROAD  
 COLUMBIA, SC 29209  
 803.773.5113

**DETAILS**



**TYPICAL SECTION DISCHARGE STRUCTURE**  
 SCALE : 1" = 8'



**TYPICAL SECTION BORROW PIT/POND SIDESLOPES**  
 SCALE : 1" = 8'

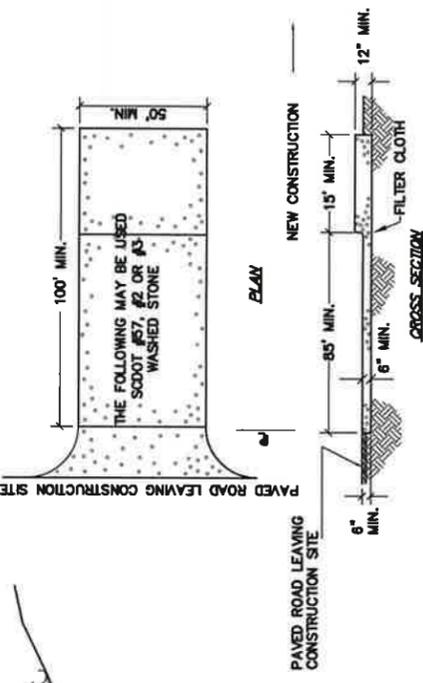


NO.	DATE	DESCRIPTION

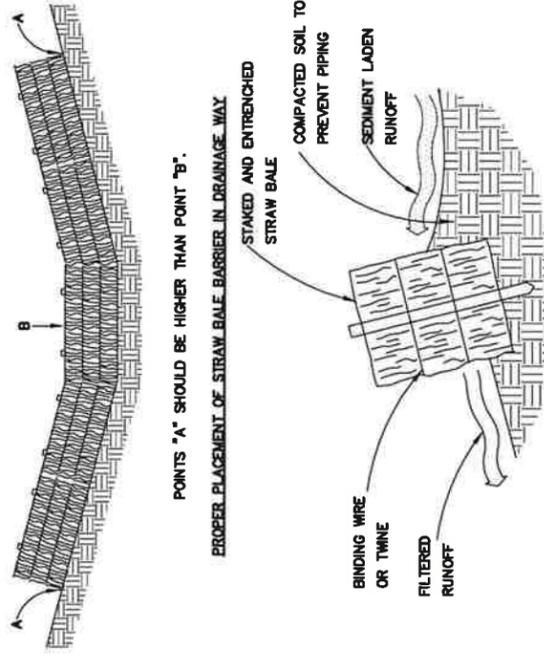
SHOP ROAD EXT.  
CITY  
PREPARED FOR  
TAYLOR BROTHERS  
2201 ATLAS ROAD  
COLUMBIA, SC 29209  
803.773.5113

**DETAIL SHEET**

- NOTES:**
- ENTRANCE SHALL BE LOCATED TO PROVIDE MAXIMUM UTILITY BY ALL CONSTRUCTION VEHICLES.
  - TURNING RADIUS SUFFICIENT TO ACCOMMODATE LARGE TRUCKS IS TO BE PROVIDED.
  - MUST BE MAINTAINED IN A CONDITION WHICH WILL PREVENT TRACKING OR DIRECT FLOW OF MUD ONTO STREETS. CONTRACTOR SHALL MAINTAIN AS NECESSARY; PERIODIC TOP DRESSING WITH STONE WILL BE NECESSARY.
  - ANY MATERIAL TRACKED ONTO PAVED ROADS SHALL BE CLEANED UP IMMEDIATELY.
  - FREQUENT CHECKS OF THE ENTRANCE(S) AND TIMELY MAINTENANCE SHALL BE PROVIDED.
  - NOTES ARE APPLICABLE AT ALL POINTS OF INGRESS AND EGRESS UNTIL SITE IS STABILIZED.



**DETAIL OF MUD MAT CONSTRUCTION ENTRANCE**  
NTS



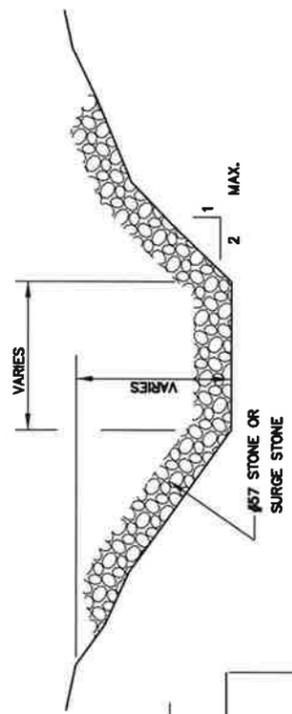
POINTS "A" SHOULD BE HIGHER THAN POINT "B".

PROPER PLACEMENT OF STRAW BALE BARRIER IN DRAINAGE WAY

NOTE: EMBED HAY BALES A MINIMUM OF 4 INCHES.

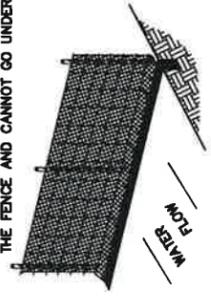
**CROSS-SECTION OF A PROPERLY INSTALLED STRAW BALE**

**HAY BALE CHECK DAM** (Cd)

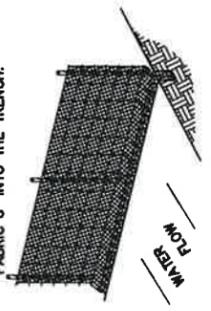


**RIP-RAP LINED DITCH**  
NTS

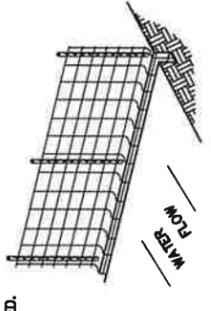
STEP 4: THE TRENCH AND COMPACT BACKFILL FINISH TO MATCH THE RISE OF SURFACE. MAT RUNOFF IS FORGED TO GO THROUGH THE FENCE AND CANNOT GO UNDER IT.



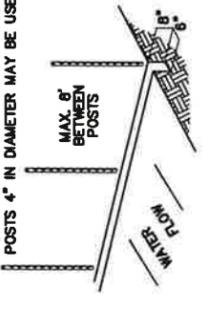
STEP 3: ATTACH THE FILTER FABRIC TO THE WIRE FENCE AND EXTEND THE BOTTOM OF THE FABRIC 6" INTO THE TRENCH.



STEP 2: WIRE FENCE TO POSTS AND EXTEND THE BOTTOM OF THE FENCE 6" INTO THE EXCAVATED TRENCH.



STEP 1: DRIVE STEEL POSTS 18" INTO GROUND AND EXCAVATE A 6" x 6" TRENCH UPHILL ALONG THE LINE OF POSTS. WOOD POSTS 4" IN DIAMETER MAY BE USED.



**TYPICAL SECTION OF PROPOSED LAKES IF ON SITE MITIGATION IS ALLOWED**  
NTS

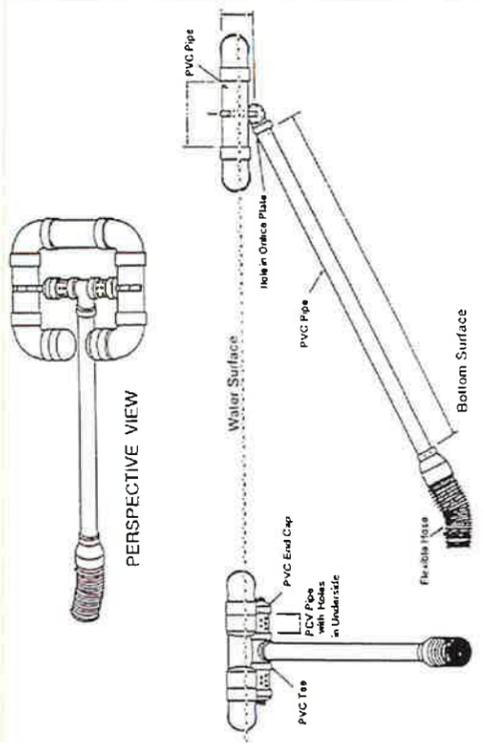
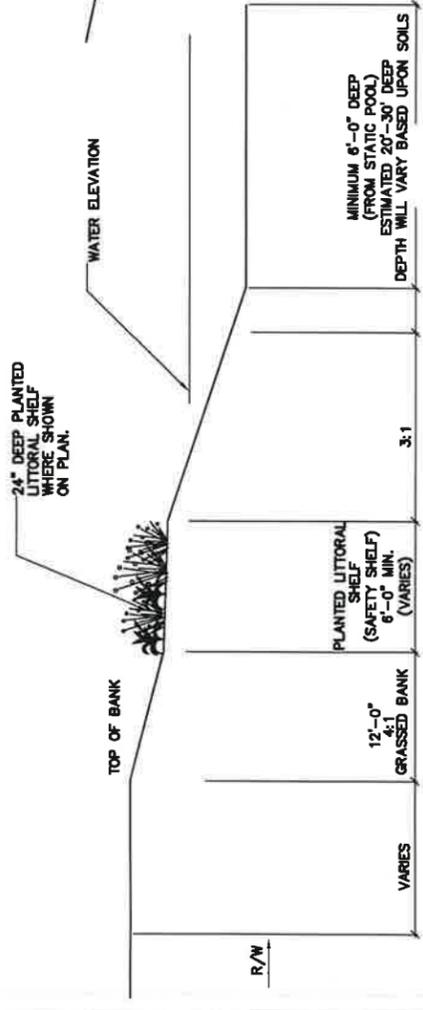
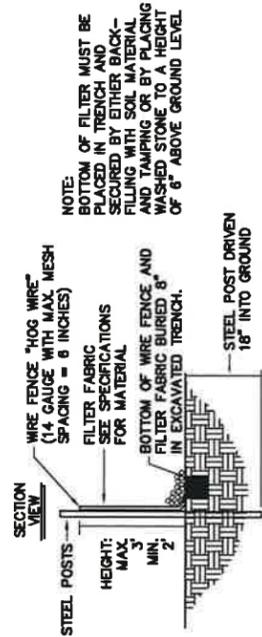


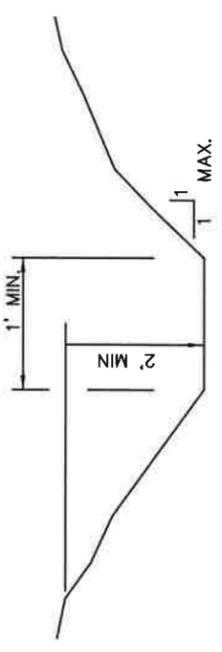
Figure 6-22.4 - Skimmer outlet

**TYPICAL FLOATING INTAKE OR EQUIVALENT**  
NTS



NOTE: BOTTOM OF FILTER MUST BE PLACED IN TRENCH AND SECURED WITH EITHER BACK-FILLING WITH SOIL OR BY PLACING AND TAMING OF 6\"/>

**STANDARD TEMPORARY SILT FENCE**  
NTS



**RIM DITCH**  
N.T.S.







## REQUEST, DISCUSSION AND RECOMMENDATION

### **CASE:**

17-10 Variance

### **REQUEST:**

The applicant is requesting the Board of Zoning Appeals to grant a variance to encroach into the required rear yard setbacks in the Rural (RU) district.

### **GENERAL INFORMATION:**

*Applicant:* Katie Coble

*TMS:* 04200-04-11

*Location:* 1912 Kennerly Road, Irmo, SC 29063

*Parcel Size:* 1 acre

*Existing Land Use:* Currently the property is residentially developed.

*Proposed Land Use:* The applicant proposes an addition onto the existing residential structure which will encroach into the required rear yard setback.

*Character of Area:* Kennerly Road is primarily comprised of residentially developed large lots.

### **ZONING ORDINANCE CITATION:**

Section 26-33 (a) (2) of the Land Development Code empowers the Board of Zoning Appeals to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in an unnecessary hardship. Such appeals shall be made in accordance with the procedures and standards set forth in Sec. 26-57 of this chapter.

### **CRITERIA FOR VARIANCE:**

Standard of review. The board of zoning appeals shall not grant a variance unless and until it makes the following findings:

- a. That there are extraordinary and exceptional conditions pertaining to the particular piece of property; and
- b. That these conditions do not generally apply to other property in the vicinity; and
- c. That because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- d. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

### **DISCUSSION:**

The applicant is proposing to construct a 480 (16 x 30) square foot addition onto the existing 1,284 square foot residential structure which will encroach into the required setback by thirty-four (34) feet. The required rear yard setback for a primary structure in the RU zoned district is twenty (50) feet.

There is a 75 foot discrepancy between the lengths of the side property lines which results in a slant of the rear property line. The provided plat indicates that the parcel has held this configuration since 1982. While the parcel is conforming with regards to lot size and width, the current structure is not in compliance due to its encroachment in the required rear yard setback.

According to the applicant, the variance will provide for an expansion of the existing two bedroom/one bathroom home and "...give each child their own bedrooms and a space to safely store medical supplies."

Staff believes that the subject request does not meet all of the criteria required for the granting of a variance. Records indicate that the current structure was built in 1982, which would have subjected it to the required setbacks for the RU zoning district. It is staff's opinion that the creation of conditions which could be deemed to be extraordinary and/or exceptional are not grounds for the granting of a variance. Staff recommends that the request be **denied**. According to the standard of review, a variance shall not be granted until the following findings are made:

**a. Extraordinary and exceptional conditions**

Staff was unable to establish that there are extraordinary and exceptional conditions present.

**b. Conditions applicable to other properties**

Staff was not able to determine that the conditions of other parcels/structures in the general area of the subject site are similar.

**c. Application of the ordinance restricting utilization of property**

Applying the setback requirements for the RU district would not prevent the utilization of this parcel.

**d. Substantial detriment of granting variance**

There would be no substantial detriment to the surrounding properties if the variance is granted.

**CONDITIONS:**

26-57(f)(3)

Conditions. In granting a variance, the board of zoning appeals may attach to it such conditions regarding the location, character, or other features of the proposed building, structure or use as the board of zoning appeals may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare. The board of zoning appeals may also prescribe a time limit within which the action for which the variance was sought shall be begun or completed, or both.

**OTHER RELEVANT SECTIONS:**

26-57 (f) (1) Formal review.

(1) Action by the board of zoning appeals. Upon receipt of the application for a variance request from the planning department, the board of zoning appeals shall hold a public meeting on the proposed variance request. Any party may appear in person or be represented by an authorized agent. In considering the application, the board of zoning appeals shall review the application materials, the staff comments and recommendations, the general purpose and standards set forth in this chapter, and all testimony and evidence received at the public hearing. After conducting the public hearing, the board of zoning appeals may:

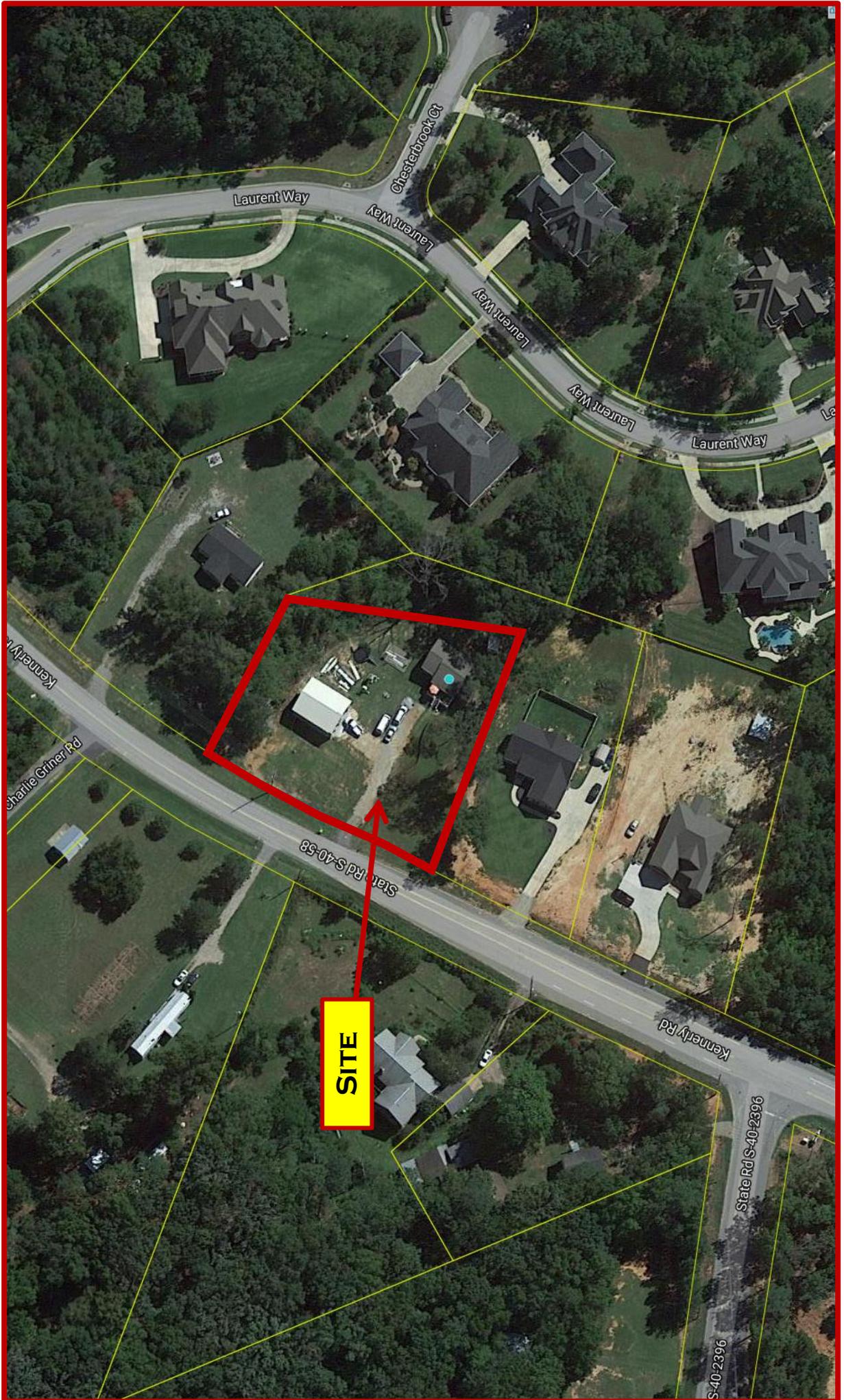
a. Approve the request;

b. Continue the matter for additional consideration; or

c. Deny the request.

Any approval or denial of the request must be by a concurring vote of a majority of those members of the board of zoning appeals both present and voting. The decision of the board of zoning appeals shall be accompanied by written findings that the variance meets or does not meet the standards set forth in the Standard of Review. The decision and the written findings shall be permanently filed in the planning department as a public record. The written decision of the board of zoning appeals must be delivered to the applicant.

**17-10 V**  
**Katie Coble**  
**1912 Kennerly Road**  
**Irmo, SC 29063**  
**TMS# 04200-04-11**





# BOARD OF ZONING APPEALS

## VARIANCE APPEALS



Application #

1. Location 1912 Kennerly Road, Irmo, SC 29063  
 TMS Page 04200 Block 04 Lot 11 Zoning District RU
2. Applicant hereby appeals to the Zoning Board of Appeals for a variance from the strict application to the property as described in the provisions of Section 26-86 of the Richland County Zoning Ordinance.
3. Applicant requests a variance to allow use of the property in a manner shown on the attached site plan, described as follows: see attached

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4. The application of the ordinance will result in unnecessary hardship, and the standards for a variance set by Sec. 26-602.3b(1) of the Richland County Zoning Code are met by the following facts.
  - a) There are extraordinary and exceptional conditions pertaining to the particular piece of property as following: Our neighbor (brother in law) owns the property behind us resulting in our property line being too close to proceed with permits to build addition
  - b) Describe how the conditions listed above were created: Years ago the property was sectioned off making 3 lots. The property that is preventing our build is unusable for anyone
  - c) These conditions do not generally apply to other property in the vicinity as shown by: The property is not large enough to do anything with. Currently the property is only good for water to drain through
  - d) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: Brother in law is fine with the build being close to his property as he states the property is unusable to him.
  - e) The authorization of the variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: This build will not affect anyones property nor disrupt any property around us. According to Richland county zoning property must be 60ft off property line. The build will still be on our property giving 16ft from line.
5. The following documents are submitted in support of this application [a site plan must be submitted]:
  - a) Platt
  - b) site plan/proposed addition
  - c) neighbor statement

using brother in laws property we will be well above 60ft.

Katlyn One  
Applicant's Signature

1912 Kennerly Rd  
Address

843. 1214.9617  
Telephone Number

Katie J. Coble  
Printed (typed) Name

Irmo, SC 29063  
City, State, Zip Code

803.917.6348  
Alternate Number

William B. Timmons  
*WBT*

(3)

We are requesting a variance at the address of 1912 Kennerly Road, Irmo, SC. We are proposing to build an addition onto our existing home which includes two bedrooms, one bathroom, and a playroom.

This addition is most definitely a NEED vs. a want in so many ways. We have three beautiful daughters and we are running out of space for each child to have their own space. Our oldest daughter happens to have Down Syndrome. She is five years old and unfortunately has had numerous medical complications. Despite her medical history she is a thriving five year old but still needs constant redirection and constant supervision when around siblings. This addition will give each child their own bedrooms and a space to safely store medical supplies.

Please consider approving this variance so we can make a safer space for our family.

6-1-17

I THOMAS PENN OWN THE PROPERTY  
AT 1906 KENNERLY RD. IRMO, S.C. THE ADDITION  
BLAKE TIMMONS IS PROPOSING TO BUILD AT 1912  
KENNERLY RD. WILL NOT AFFECT ME NOR MY  
PROPERTY.

THIS PROPERTY IS NOT LARGE ENOUGH  
TO DO ANYTHING WITH. WHEN IT RAINS, THE  
WATER DRAINS THROUGH THIS STRETCH OF THE  
PROPERTY.

THANKS,



THOMAS PENN

this is to certify that i have consulted the federal insurance administration flood hazard boundary map and found that the described property (●) or (is not) located in a flood hazard area.

A



APPROVED FOR RECORDING

DATE SEP 3 1982

PLAT PREPARED FOR

NAME RICK L. NUNLEY & ANDREA D. LORICK TITLE

RICHLAND COUNTY, NEAR IRMO, S.C.  
 THE SAME BEING SHOWN AS PORTION OF PARCEL B 33.04 AC TRACT PLAT OF CHARLES GRINER  
 BY RICHARD M. LEE DATED APRIL 10, 1965 AND RECORDED  
 IN THE OFFICE OF THE REGISTER OF MESNE CONVEYANCE FOR RICHLAND COUNTY  
 COUNTY IN PLAT BOOK 26 AT PAGE NO. 366

I HEREBY CERTIFY THAT THE MEASUREMENT AS SHOWN ON THIS PLAT ARE CORRECT AND THERE ARE NO ENCRDACHMENT OR PROJECTIONS OTHER THAN SHOWN.

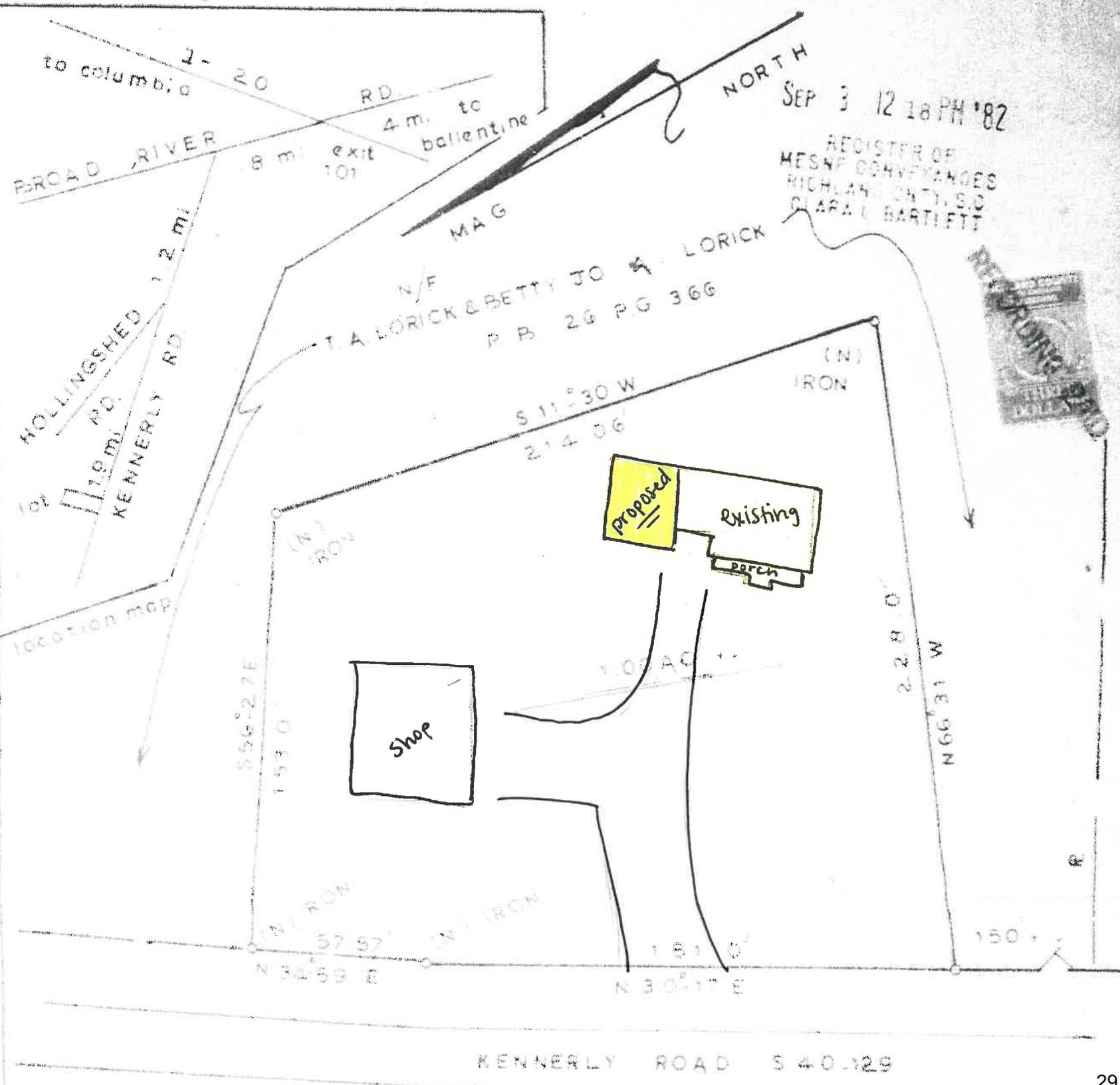
I HEREBY CERTIFY THAT THE RATIO OF FIELD PRECISION OF FIELD SURVEY IS NOT LESS THAN ONE FOOT IN 5,000 FEET ON THE AREA WAS DETERMINED BY D.M.D. METHOD.

REFERENCE DEED RECORDED IN DEED BOOK D 95 AT PAGE 102 DATE AUG 25, 1982

Donald G. Platt  
 DONALD G. PLATT  
 REG. LAND SURVEYOR  
 NO. 4778

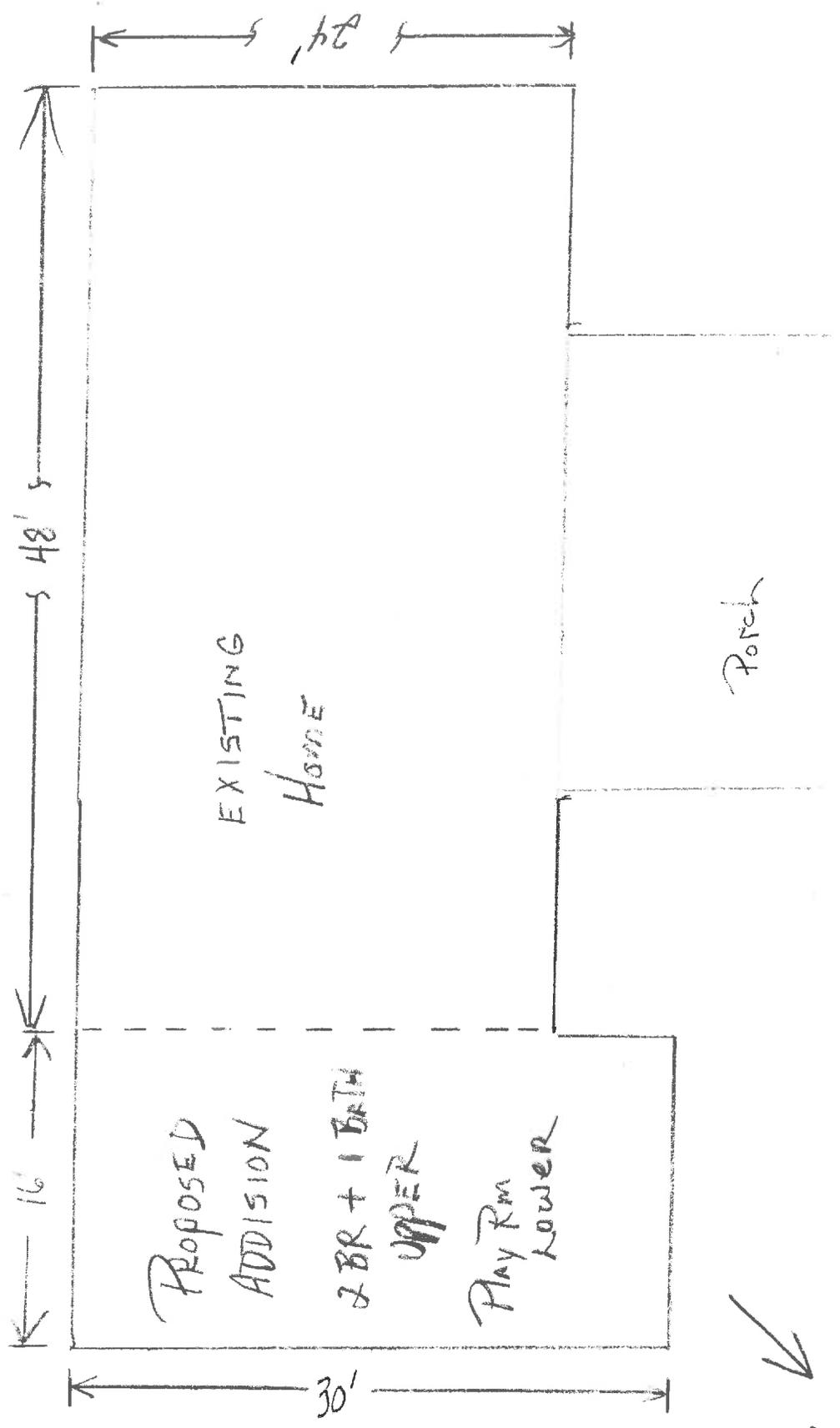
SCALE 1" = 50.0' (bar scale) 0 50 100  
 341 GLENN ROAD W. COLUMBIA, FILE NO.

this is to certify that i have consulted the federal insurance administration flood hazard boundary map and found that the described property (●) or (is not) located in a flood hazard area.



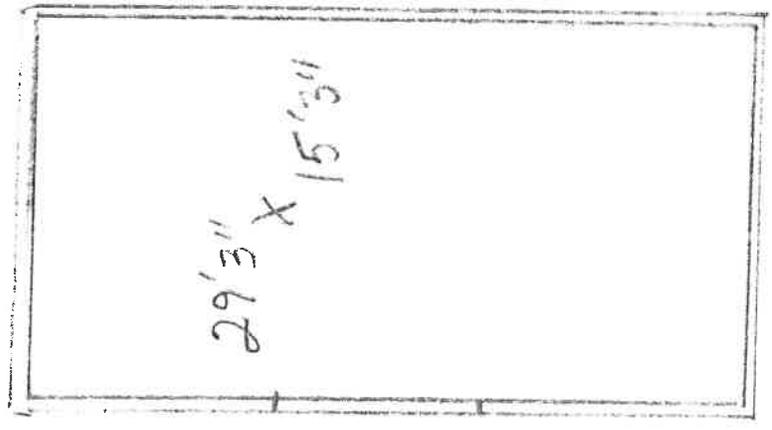
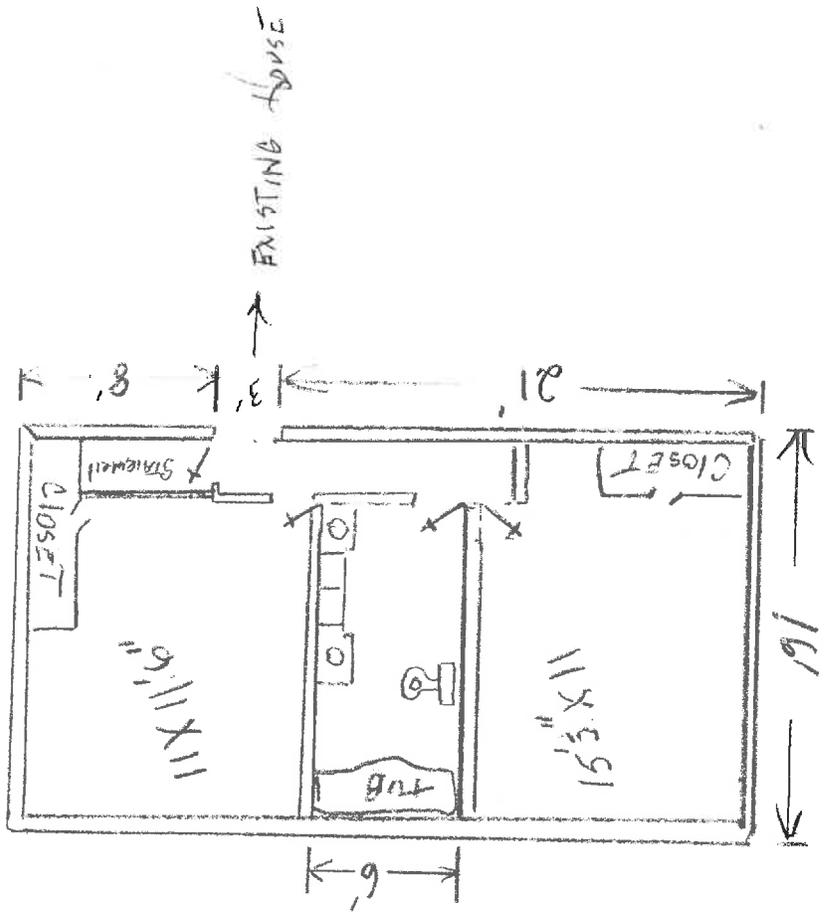
B

TOP VIEW



NEW UPPER LEVEL

LOWER LEVEL

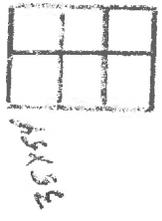
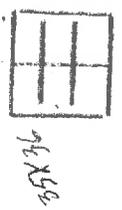
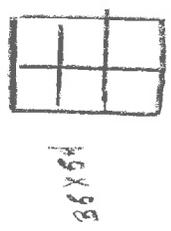


Top view

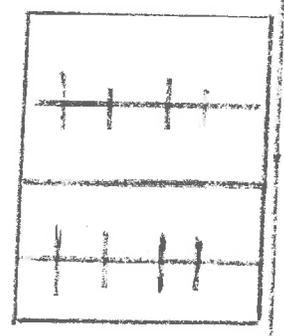
SIDE VIEW



Dim Shingles



Vinyl D.H



Vinyl D.H Color?

**Reconsideration  
of  
Case 17 – 09 V  
Barry Bor**





June 15, 2017

**VIA HAND DELIVERY**

Mr. Geonard Price  
Richland County Planning Dept.  
2020 Hampton St.  
Columbia, SC 29204

Ref: Request for Reconsideration of case #17-09 Variance

Mr. Price:

I am writing to you at the request of Barry Bor to appeal the denial of his variance from the above referenced claim number.

Pursuant to communications by your office to Mr. Barry Bor on 6/15/17, in person at your offices, Mr. Bor was advised that the reason his request for Variance was not granted was because he did not provide enough evidence of "extraordinary and exceptional conditions" to allow for a Variance on his property. This was also somewhat spelled out in the minutes from the 6/7/17, Board Meeting. Mr. Bor wishes to request a Reconsideration of this matter pursuant to 3.7a of the Rules of Procedure for the Board of Zoning Appeals.

Mr. Bor submits he presented adequate evidence that extraordinary and exceptional conditions exist to grant the variance requested by him. As Mr. Bor pointed out, he has a tapered lot in the Longcreek Plantation community which has been zoned as Rural since 1962. However, due to the changes in the Longcreek Plantation via numerous developments over the past decade, his property appears to now be misclassified as virtually every other property in the Community now has a 5 foot setback. While Mr. Bor is requesting to build the structure to the 5 foot setback, he did offer the alternative request for approval to at least the 10 foot mark. Thus, the encroachment would be only 10 feet rather than 15 feet which is what is specifically requested, and would actually be consistent with the original zoning in 1977. It does not appear the alternative request was considered by the Board and is a material mistake of fact under 3.7a b) of the Rules of Procedure.

Moreover, Mr. Bor was not provided any written decision as of this date of the written findings of the Board or how the Board members actually voted. He was given a copy of the minutes on 6/15/17, after he came to the location. Specifically, he was present for the meeting on 6/7/17, and only 1 member actually denied the request with no vote taken by others at least verbally. He has not been provided with any decision showing how all the members voted at the meeting in violation of 3.7a a).

Mr. Bor believes that the Board inadvertently failed to understand that the variance he has requested is in no way contrary to the public interest, and that due to the special conditions he presented pertaining to his property, a literal enforcement of the setback rules to his property would result in an unnecessary hardship.

- A) As pointed out to the Board, the request would pose absolutely no problems for any emergency vehicles or any other necessary access to the property;
- B) Due to the existing irrigation lines on the property, there is literally nowhere else the proposed carport could be built;
- C) There is a swimming pool in the back yard making it impossible to build the carport there;
- D) Due to the way the lot is tapered, there is no other location the carport could be built;
- E) There is also an existing septic tank which prohibits the carport being built in that location;
- F) He has a driveway making it impossible to build the carport other than proposed; and
- G) There are no other properties in the Longcreek Plantation Development with the same conditions posed by Mr. Bor's property due to the location of the actual house, swimming pool, driveway, and the existing property line. This is a "unique situation" within this community.

If the Variance is not granted, then there is literally nowhere else on Mr. Bor's property which would be practical or aesthetically pleasing to his neighbors. Realizing this in advance, Mr. Bor obtained the written approval from all of his neighbors agreeing with his proposal. Finally, there will be no changes to any of the current structures which have been in place for over 30 years. The carport will not be visible to any of the adjacent property and will be a much improved structure. There is simply not another location on this property where the structure could be built. For these reasons, Mr. Bor believes he has clearly shown there are extraordinary and exceptional conditions present to this particular property.

Mr. Bor believes the Board is mistaken in its view that the same extraordinary conditions of the other parcels in the general area of Mr. Bor are similar. As pointed out, virtually every other parcel in this area are governed by a 5 foot setback; therefore, it is abundantly apparent these parcels of land are not similar. While there are certainly some other parcels zoned as rural, the percentage of same in the vast community is miniscule. In short, these other property owners could simply build the same structure without consequence as they are already allowed the 5 foot setback. It appears fundamentally unfair for these other property owners to have options available which are not available by Mr. Bor simply because his house was built long before many of the others. Thus, Mr. Bor believes he has shown that the conditions of his property do not apply to the other property in the vicinity of his home.

Additionally, the Board determined that by applying the setback requirements for the RU district would not prevent the utilization of Mr. Bor's property. As thoroughly explained above, that is a mistake of fact by the Board and there is no explanation from the Board regarding this finding. Mr. Bor has

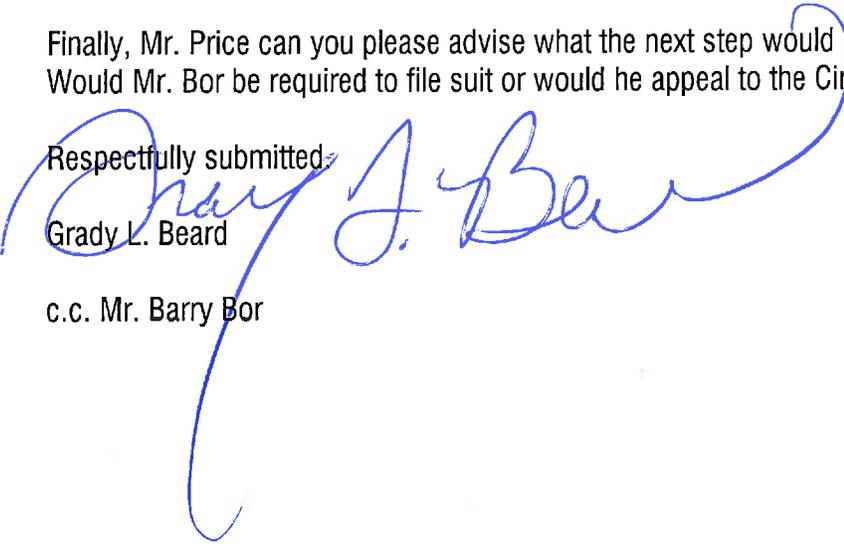
explained in detail why enforcement of the setback rules would prohibit his ability to use the property for the intended purpose of his carport. Given no other options, as explained above, and no voices opposing the request from anyone in the neighborhood, it is unreasonable to restrict Mr. Bor from his request.

The Board did apparently agree that the granting of this variance would not cause any substantial detriment to the surrounding properties if the variance is granted.

Mr. Bor requests the Zoning Board reconsider its decision for the reasons stated above pursuant to 3.7a of the Rules of Procedure. While Mr. Bor understands the appeal will be acted upon based upon this written request, he would respectfully request the opportunity to testify live at the appeal within the Board's discretion under 3.7a of the Rules of Procedure. Moreover, if the Board feels it appropriate, I would be happy to attend as well to try and provide any additional information or context needed which cannot be conveyed fully in writing.

Finally, Mr. Price can you please advise what the next step would be if the variance is not granted? Would Mr. Bor be required to file suit or would he appeal to the Circuit Court?

Respectfully submitted,

  
Grady L. Beard

c.c. Mr. Barry Bor

Good Morning Mr. Price:

I appreciate you discussing this matter with me Monday and advising that I could supplement the letter written to you on 6/15/17, regarding Mr. Bor's request for Reconsideration by the Board as to the denial of his variance. Please consider this e-mail an addendum to the letter written on 6/15/17.

During our conversation, you advised one of the major reasons that the variance was denied was because Mr. Bor was not treated any differently than the other parcels in the general area which were similar. However, upon closer review of the other Rural parcels in the area, it is clear the vast majority of these parcels are actually rectangular making them have many other potential building locations without impacting the setback requirements. In fact, the tapered lots in this area, like that of Mr. Bor which are designated as Rural, are de minimis in the Longcreek Plantation. We strongly believe this makes a major difference from the other Rural lots and show they are not in fact similar.

Again, we appreciate the opportunity to discuss this with you and respectfully request the Board to grant our Reconsideration.

Thanks-Grady



Grady L. Beard **VCARD**

1310 Gadsden Street | Columbia, SC 29201 | 803.231.7824  
[sowellgray.com](http://sowellgray.com)





Richland County Government  
2020 Hampton Street  
Columbia, SC 29204

Phone (803) 576-2180  
Fax (803) 576-2182

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